

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 16, 2006

Division: Growth Management

Bulk Item: Yes X No

Department: Growth Management

Staff Contact Person: Ty Symroski

Jerry D. Sanders, Esq.

AGENDA ITEM WORDING: Discussion, guidance to Staff and conceptual approval for the purchase of land by Monroe County for the Tradewinds Hammocks Phase II in Key Largo.

ITEM BACKGROUND: The Developer of Tradewinds Hammocks proposes to develop Phase II as affordable housing (Phase I is adjacent, completed and has 66 affordable housing deed restricted units). Tradewinds Hammocks II, LLC proposes that the County purchase the underlying realty of Phase II at 65% of appraised value (\$1,720,000 X 65% = \$1,118,000), lease it back to the developer for 99 years with the developer to build 52 affordable housing units with appropriate deed restrictions.

PREVIOUS RELEVANT BOCC ACTION: None, but see attached sheet with previous activity by the Board of County Commissioners acting as the Monroe County Land Authority Governing Board.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: \$1,118,000

BUDGETED: Yes No X

COST TO COUNTY: \$1,118,000

SOURCE OF FUNDS: To be determined

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL: Ty Symroski 5/11/2-6

DOCUMENTATION: Included X Not Required

DISPOSITION: **AGENDA ITEM #**

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**Previous Activity by Monroe county Land Authority
Governing Board**

On June 16, 2004, the Board authorized staff to release Monroe County Land Authority's deed restriction upon the developer's repayment of the loan. (Monroe County Land Authority (MCLA) received the repayment in May 2005 and recorded a release of the MCLA deed restrictions that same month, after which the deed restrictions required by the LDRs were imposed by Growth Management.)

On February 22, 2001, the Board denied the \$924,000 loan request. On April 11, 2001 the Board was sued by the owner/developer. On August 16, 2001 the Board approved the \$924,000 loan request. On December 17, 2003 the Board conceptually approved a conversion to moderate income homeownership, subject to the developer providing certain follow-up documentation. On February 18, 2004, the Board approved purchasing the property and conveying same to Housing Authority, provided the Housing authority wishes to participate in the project.

PROPOSED LEASE

LEASE

BETWEEN

MONROE COUNTY

“LESSOR”

AND

“LESSEE”

DATED _____, 2006

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GROUND LEASE AGREEMENT

THIS LEASE made and entered into in Key West, Monroe County, Florida, on this ____ day of _____, 2006, by and between **MONROE COUNTY** (referred to as the "Lessor") and _____ (referred to as the "Lessee").

RECITALS

WHEREAS, Lessor is the owner in fee simple of the property located at _____, Monroe County, Florida, and more particularly described on the attached Exhibit "A" (hereinafter "Property"); and,

WHEREAS, it is Lessor's intent that the Property be developed to provide affordable housing for Monroe County; and,

WHEREAS, Lessee desires to develop the Property and build at least _____ affordable units (provided allowed by County regulations and hereinafter the "Affordable Housing Units"), and Initial Lessee may rent/lease any units not sold to qualified owner-occupants; and,

WHEREAS, in order to preserve the affordability of the units to be developed on the Property, Lessor desires to lease the Property to Lessee for ninety-nine (99) years, subject to the Affordable Restrictions as set forth herein; and,

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

Definitions

"Affordable Housing Unit" shall mean a residential housing unit that meets the moderate income requirements set forth in Chapter 9.5 and any other applicable sections of the Monroe County Land Development Regulations, as may be amended from time to time, said restrictions to encumber the Property for a term of ninety-nine (99) years.

"Affordable Restrictions" shall mean the affordable guidelines as set forth in Chapter 9.5 and any other applicable sections of the Monroe County Land Development Regulations, and as hereinafter amended, except that in no event shall the lawfully permissible sales price for the Affordable Housing Unit be more than the sales price for moderate income housing as set forth in the Land Development Regulations in effect at the time of execution of this Lease. The substance of the Affordable Restrictions may be amended in the Lessor's legislative discretion, particularly with respect to administrative,

monitoring and enforcement mechanisms, but shall not materially diminish the resale value or reasonable alienability of an Affordable Unit. It is the intent and purpose and shall be the effect of this Lease and any Affordable Restrictions to ensure that the affordability of affordable units and dedicated real property is maintained and enforced such that any administrative rule, policy or interpretation thereof, made by Lessor or its designees relating to the maximum total amount permitted to be in any way involved in a purchase or rental transaction (including but not limited to purchase price, lease assignment fees or any other compensation received in or outside of a related transaction) shall never exceed the affordability criteria reasonably established by Monroe County for the dwelling units involved. In every case construction and interpretation of terms, conditions and restrictions imposed by this Lease and the Affordability Restrictions shall be made in favor of an interpretation that ensures long term affordable values.

"Association" shall mean the condominium, homeowners or similar community association customarily used in planned developments to manage certain aspects of community or planned development living (e.g., infrastructure management, rules and regulations, enforcement mechanisms and recreational facilities).

"Commencement Date" shall mean the date when all constructed Affordable Housing Units contemplated herein have received certificates of occupancy.

"Demised Premises" shall mean the property leased pursuant to this Lease for development of the Affordable Housing Units. The Demised Premises is depicted on attached Exhibit "B" and legally described on attached Exhibit "A". Demised Premises, where the context requires and the construction is most appropriate, shall also mean portions of the Demised Premises and any improvements erected thereon.

"Effective Date" shall mean the date this Lease is fully executed and delivered by all parties and the date that the Lessee shall be entitled to begin to occupy the Demised Premises for purposes of development and construction of the Project.

"Initial Lessee" means _____,
developer of the Affordable Units.

"Lease" shall mean this lease for the creation of the Affordable Housing Units on the Demised Premises, and where the context so requires, any similar authorized master lease provided for herein.

"Lease Year" shall mean the twelve (12) month period beginning on the Commencement Date and each twelve month period thereafter throughout the Term of this Lease.

"Lessor" means MONROE COUNTY, or its assigns or designees. Lessor as used herein, where the context requires, shall mean an agency or party designated by the Lessor to administer or enforce the provisions of this Lease.

"Lessee" means the Initial Lessee and its successors and assigns, including the Association created for the unit owners/tenants, as well as the individual unit owners/tenants.

"Project" shall mean the required development of the Demised Premises, primarily the required construction of forty (40) Affordable Housing Units, but also including related infrastructure, securing of required development approvals and permits, financing and marketing of the Affordable Units and creation of any required governing Association.

"Rent" shall mean any sum of money due to the Lessor under this Lease for any reason. The term Rent as used herein, should not be misconstrued to preclude definition of rent, rental rates and other such other meanings as may be provided for in Subleases and/or the Affordable Restrictions.

"Sale" and "Sell" as used herein shall be broadly and liberally construed so as to encompass, where contextually appropriate, any lease, sale, grant, rental, assignment or other conveyance of an interest in a portion of the Demised Premises, but excluding any security, mortgage, note or other interest of a form and type customarily used with purchase money or home equity loans.

"Sublease" shall mean any combination of instruments that grant, convey or otherwise transfer a possessory and or title interest to any portion of the Demised Premises, but excluding any security, mortgage, note or other interest of a form and type customarily used with purchase money or home equity loans. The title or exact nomenclature used to describe such instruments may vary to suit particular circumstances and shall lie within Initial Lessee's reasonable discretion and still remain within the meaning herein intended (e.g., a "deed of improvements" may in a given context be construed as an effective sublease for purposes herein). It is intended that a Sublease constitute such instruments that effectuate qualified end-user, title, possession and/or use of Affordable Units developed on the Demised Premises. A Sublease, as used herein, regardless of final form and substance, must be approved by the Lessor, which approval shall not be unreasonably withheld.

"Term" shall mean the date when all constructed Affordable Housing Units contemplated herein have received certificates of occupancy, and continuing for ninety-nine (99) years, plus any agreed upon extension of this Lease.

ARTICLE II

Demised Premises

Section 2.01 Lessor's Demise. Upon the terms and conditions hereinafter set forth, and in consideration of the payment of the rents and the prompt performance by the Lessee of the covenants and agreements, to be kept and performed by the Lessee, the Lessor does lease, let, and demise to the Lessee and the Lessee hereby leases from the Lessor, the following described premises, situate, lying and being in Monroe County, Florida:

See Attached Exhibits "A" and "B"

Section 2.02 Conditions. The demise is likewise made subject to the following:

(a) Conditions, restrictions and limitations, if any, now appearing of record;

(b) Zoning ordinances of the County of Monroe, State of Florida, and any other applicable governmental body now existing or which may hereafter exist by reason of any legal authority during the life of this Lease;

(c) The proper performance by the Lessee of all of the terms and conditions contained in this Lease.

ARTICLE III

Term

To have and to hold the Demised Premises for a term of ninety-nine (99) years commencing the date the Affordable Housing Units have been completed and issued certificates of occupancy, the Commencement Date, and ending ninety-nine (99) years thereafter, both dates inclusive, unless sooner terminated, or extended, as hereinafter provided. Lessee shall be given possession on the Effective Date and the terms and conditions set forth herein shall be binding on the parties as of the Effective Date. Lessee shall have the right to occupy the Demised Premises as of the Effective Date in order to allow Lessee to commence construction, as well as other activities related to the development and construction of the Project. As herein set forth, the Term will not commence until the Affordable Housing Units are completed and certificates of occupancy have been issued for all such Affordable Units, said date to be evidenced by the Commencement Date Agreement that the parties will execute in substantially the same form as that set forth in **Schedule 1**, upon completion of construction.

ARTICLE IV

Rent

Section 4.01. Lessee covenants and agrees to pay to Lessor promptly when due, without notice or demand, and without deduction or offset, Rent for the Demised Premises during the Term as follows:

(a) Annual Base Rent. Lessee shall pay to Lessor Annual Base Rent throughout the term of this Lease beginning on the Commencement Date, in the amount of Ten Dollars (\$10.00) per Lease Year or partial Lease Year. Lessee shall

pay to Landlord said Annual Base Rent on the first day of the second month of each Lease Year throughout the term of this Lease without notice or demand.

Section 4.02. All amounts payable under Section 4.01 hereof, as well as all other amounts payable by Lessee to Lessor under the terms of this Lease, shall be payable in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment, each payment to be paid to Lessor at the address set forth herein or at such other place within the continental limits of the United States as Lessor shall from time to time designate by notice to Lessee. Except for any income tax payable by the Lessor, Lessee shall pay any and all taxes, including any local surcharge or other tax, on the Rent payable pursuant to this Lease in addition to the sums otherwise set forth herein.

Section 4.03. It is intended that the Rent provided for in this Lease shall be absolutely net to Lessor throughout the Term, free of any taxes, costs, utilities, insurance expenses, liabilities, charges or other deductions whatsoever, with respect to the Demised Premises and/or the ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation thereof.

Section 4.04. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when due as provided for in this Lease, shall bear interest at the highest rate allowable under Florida law from the time they become due until paid in full by Lessee. In addition, Lessee shall pay a late fee in the amount of ten (10%) percent of any amount due from Lessee to Lessor which is not paid within ten (10) days of the due date for such payment as to any sums due for Rent and within thirty (30) days for any other sums due from Lessee pursuant to this Lease; provided, however, such payment shall not excuse or cure any default by Lessee under this Lease. It is agreed by the parties hereto that said late fee should be used for setoff against reimbursement to Lessor for collection charges incurred as a result of the overdue rent which may include but shall not be limited to related attorneys' fees, regardless of whether suit is brought. Such late fee shall be in addition to any interest payable by Lessee as set forth herein from Lessee's failure to pay any Rent due hereunder. In the event that any check, bank draft, order for payment or negotiable instrument given to Lessor for any payment under this Lease shall be dishonored for any reason whatsoever not attributable to Lessor, Lessor shall be entitled to charge Lessee an administrative charge of Fifty Dollars (\$50.00). In addition, Lessor shall be reimbursed by Lessee for any costs incurred by Lessor as a result of said instrument being dishonored.

ARTICLE V

Non-Subordination

Notwithstanding anything to the contrary contained in this Lease, the fee simple interest in the Demised Premises shall not be subordinated to any leasehold mortgage, lien or encumbrance of any nature whatsoever. Furthermore, the Lessor's right to receive payment or performance under the terms of this Lease or adherence to any of its conditions

(or those of any Sublease or related conveyance) shall not be subordinated to any debt or equity financing, leasehold mortgage, lien, encumbrance or obligation of any nature whatsoever.

ARTICLE VI

Payment of Taxes and Utilities

Section 6.01 Lessee's Obligations. As additional Rent, the Lessee shall pay and discharge, as they become due, promptly and before delinquency, all taxes, assessments, water and sewer rents, rates and charges, transit taxes, charges for public utilities, excises, levies, licenses and permit fees and other governmental charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature, whatsoever, which at any time during the term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on, the Demised Premises, or any part thereof or any appurtenance thereto, or otherwise arising out of the income received by the Lessee from the sale of the affordable units to subtenants, or any document (to which the Lessee is a party) creating or transferring an interest or estate in the Demised Premises. With regards to special assessments, if the right is given to pay either in one sum or in installments, Lessee may elect either mode of payment and Lessee's election shall be binding on Lessor.

Section 6.02 Obligations Altered. Nothing herein shall require the Lessee to pay municipal, state, or federal income taxes assessed against the Lessor, municipal, state, or federal capital levy, estate, gift, succession, inheritance or transfer taxes of the Lessor, or Lessor's legal representative, corporate franchise taxes imposed upon any corporate owner of the fee of the Demised Premises; provided, however, that if at any time during the term of this Lease the methods of taxation prevailing at the commencement of the term hereof shall be altered so as to cause the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed and imposed, wholly or partially as a capital levy, or otherwise, on the rents received therefrom, or of any tax, corporation franchise tax, assessments, levy (including, but not limited to any municipal, state or federal levy), imposition or charge, or any part thereof, shall be measured by or based in whole or in part upon the Demised Premises and shall be imposed upon the Lessor, then all such taxes, assessments, levies, impositions or charges, or the part thereof so measured or based, shall be paid and discharged by the Lessee. All rebates on account of any taxes, rates, levies, charges or assessments required to be paid shall belong to Lessee.

Section 6.03 Mode of Payment. The Lessee shall pay the taxes and other charges as enumerated in this Article and shall deliver official receipts evidencing such payment to the Lessor, which payment of taxes shall be made and the receipts delivered, at least thirty (30) days before the tax, itself, would become delinquent in accordance with the law then in force governing the payment of such tax or taxes. If, however, the Lessee desires to contest the validity of any tax or tax claim, the Lessee may do so without being in default hereunder, provided the Lessee gives the Lessor notice of the Lessee's intention to do so and furnishes

the Lessor or the applicable governmental agency with a bond with a surety made by a surety company qualified to do business in the State of Florida or pays cash to a recognized escrow agent in Monroe County, one and one half (1 1/2) times the amount of the tax item or items intended to be contested, conditioned to pay such tax or tax items when the validity thereof shall have been determined, and which written notice and bond or equivalent cash shall be given by the Lessee to the Lessor, not later than sixty (60) days before the tax item or items proposed to be contested would otherwise become delinquent.

Section 6.04 Lessee's Default. If the Lessee shall fail, refuse or neglect to make any of the payments required in this Article, then the Lessor may pay the same, and the amount or amounts of money so paid, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such payments, together with interest on all such amounts, at the highest rate allowed by law shall be repaid by the Lessee to the Lessor, upon the demand of the Lessor, and the payment thereof may be collected or enforced by the Lessor in the same manner as though such amount were an installment of rent specifically required by the terms of this Lease to be paid by the Lessee to the Lessor, upon the day when the Lessor demands repayment thereof or reimbursement therefor of and from the Lessee; but the election of the Lessor to pay such taxes shall not waive the default thus committed by the Lessee.

Section 6.05 Proration. The foregoing notwithstanding, the parties hereto understand and agree that the taxes for the first year (beginning on the Effective Date) and the last year of the Term shall be prorated proportionately between the Lessor and the Lessee.

ARTICLE VII

Mechanic's Liens

Section 7.01 No Lien. The Lessee shall not have the power to subject the interest of the Lessor in the Demised Premises to any mechanic's or materialmen's liens or lien of any kind.

Section 7.02 Release of Lien. The Lessee will not permit or suffer to be filed or claimed against the interest of the Lessor in the Demised Premises during the continuance of this Lease, any lien or claim of any kind (excepting for the mortgage(s) referred to in Article XV), and if such lien be claimed or filed, it shall be the duty of the Lessee, within thirty (30) days after the Lessee shall have been given written notice of such a claim having been filed, or within thirty (30) days after the Lessor shall have been given written notice of such claim and shall have transmitted written notice of the receipt of such claim unto the Lessee (whichever thirty (30) day period expires earlier) to cause the Demised Premises to be released from such claim, either by payment or by the posting of bond or by the payment to a court of competent jurisdiction of the amount necessary to relieve and release the Demised Premises from such claim, or in any other manner which, as a matter of law, will result, within such period of thirty (30) days, in releasing the Lessor and the title of the Lessor from such claim; and the Lessee covenants and agrees, within such period of thirty

(30) days, so as to cause the Demised Premises and the Lessor's interest therein to be released from the legal effect of such claim.

Section 7.03 Lessee's Default. If the Lessee shall fail, refuse, or neglect to perform its obligations as required in this Article, then the Lessor may pay any sums required to cause the Demised Premises and the Lessor's interest therein to be released from the legal effect of such claim and the amount or amounts of money so paid, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such payments, together with interest on all such amounts at the highest rate allowed by law shall be repaid by the Lessee to the Lessor, upon the demand of the Lessor, and the payment thereof may be collected or enforced by the Lessor in the same manner as though such amount were an installment of rent specifically required by the terms of this Lease to be paid by the Lessee to the Lessor, upon the day when the Lessor demands repayment thereof or reimbursement therefor of and from the Lessee; but the election of the Lessor to pay such amount shall not waive the default thus committed by the Lessee.

ARTICLE VIII

Governing Law, Cumulative Remedies

Section 8.01 Governing Law. All of the rights and remedies of the respective parties shall be governed by the provisions of this instrument and by the laws of the State of Florida.

Section 8.02 Cumulative Remedies. During the continuance of the Lease, the Lessor shall have all rights and remedies which this Lease and the laws of the State of Florida assure to it. All rights and remedies accruing to the Lessor shall be assignable in whole or in part and be cumulative, that is, the Lessor may pursue such rights as the law and this Lease afford to it in whatever order the Lessor desires and the law otherwise permits without being compelled to resort to any one remedy in advance or in waiver or compromise of any other.

ARTICLE IX

Indemnification of Lessor

Section 9.01 Indemnification by Lessee. During the Term of the Lease, the Lessee will indemnify, defend and save harmless the Lessor against any and all claims, debts, demands or obligations which may be made against the Lessor or against the Lessor's title in the Demised Premises, arising out of, or in connection with, or in any way related to the Demised Premises, except to the extent such claims may be caused by negligence or misconduct of the Lessor (or its agents or employees in the conduct of work for or at the

direction of the Lessor); and if it becomes necessary for the Lessor to respond to any claim, demand or unanticipated matter or to defend any action seeking to impose any such liability, the Lessee will pay the Lessor all costs of court and reasonable attorneys' fees incurred by the Lessor in effecting, preparing for or anticipating such response or defense in addition to any other reasonable sums which the Lessor may be called upon to pay by reason of the entry of a judgment against the Lessor in any proceeding in which such claim is asserted.

Except for loss or damage arising out of Lessor's grossly negligent or intentional acts, Lessor shall not be liable to Lessee, or to Lessee's assignees or Sublessees or the employees, agents, contractors or invites of any such person, firm or entity, for any injury or damage to person or property in or about the Demised Premises. Lessee, on its and its assignees' and successors in interests' (whole or partial) behalves, including on behalf of any future Sublessees, grantees or licensees of the Initial Lessee, Lessee or Association, hereby assumes or otherwise covenants for the acceptance by such persons sole responsibility and liability to all persons and authorities related to or arising from the possession, occupancy and use of any portion of the Leased Premises, and also for all such future occupants, owners, Lessees, Sublessees and licensees waives and releases forever all claims, demands and causes of action against Lessor and its employees, agents, successors, assigns and representatives for loss of life or injury to person or property, of whatever nature, other than that arising out of such parties' intentionally wrongful acts.

Section 9.02 Insurance. On the Effective Date the Lessee shall cause to be written and put in full force and effect a policy or policies of insurance as noted in Article X insuring the Lessee against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the operation and maintenance of the Demised Premises. All such policies shall name the Lessee and the Lessor (and any lender holding a mortgage on the Demised Premises), as their respective interests may appear, as the persons insured by such policies. Any loss adjustment shall require the written consent of both the Lessor and Lessee.

Section 9.03 Policy Limit Changes. The policy limits for the comprehensive liability insurance may be reviewed by Lessor every five (5) years and adjusted upward, if, in the reasonable discretion of Lessor such increase in coverage is prudent or if similar projects have begun to require greater insurance coverage.

ARTICLE X

Insurance

Section 10.01 Property Insurance. From and after the Effective Date, the Lessee will keep insured any and all buildings and improvements upon the Demised Premises against all loss or damage by fire, flood and windstorm, together with "all risks" "extended coverage," which said insurance will be maintained in an amount sufficient to prevent any party in interest from being or becoming a co-insurer on any part of the risk, which amount

shall not be less than full Replacement Cost value of the Demised Premises, and all of such policies of insurance shall include the name of the Lessor as an additional insured and shall fully protect both the Lessor and the Lessee as their respective interests may appear. In the event of destruction of the said buildings or improvements by fire, flood, windstorm or other casualty for which insurance shall be payable and as often as such insurance money shall have been paid to the Lessor and the Lessee, said sums so paid shall be deposited in a joint account of the Lessor and the Lessee in a bank located in the County in which the Demised Premises is located designated by the Lessee, and shall be made available to the Lessee for the construction or repair, (including any modification to the improvements sought by the Lessee and approved in writing by the Lessor with Lessor's approval not unreasonably withheld) as the case may be, of any building or buildings damaged or destroyed by fire, flood, windstorm or other casualty for which insurance money shall be payable and shall be paid out by the Lessor and the Lessee from said joint account from time to time on the estimate of any reliable architect licensed in the State of Florida having jurisdiction of such reconstruction and repair, certifying that the amount of such estimate is being applied to the payment of the reconstruction or repair and at a reasonable cost therefor; provided, however, that the total amount of money necessary for the reconstruction or repair of any building or buildings destroyed or injured has been provided by the Lessee for such purpose and its application for such purpose assured. In the event of the destruction or damage of the buildings and improvements or any part thereof, and as often as any building or improvement on said Demised Premises shall be destroyed or damaged by fire, flood, windstorm or other casualty, the Lessee shall rebuild and repair the same in such manner that the building or improvement so rebuilt and repaired, and the personal property so replaced or repaired, shall be of the same or higher value as the said building or improvement and the personal property upon the Demised Premises prior to such damage or destruction, and shall diligently prosecute the reconstruction or repairs without delay and have the same rebuilt and ready for occupancy as soon as reasonably possible from the time when the loss or destruction occurred. The 15-month period for reconstruction shall be enlarged by delays caused without fault or neglect on the part of the Lessee, by act of God, strikes, lockouts, or other conditions (other than matters of refinancing the property) beyond the Lessee's control. **Notwithstanding the foregoing, and only with respect to insurance proceeds, the reasonable provisions of any leasehold mortgage substantially comporting with customary institutional lending industry standards and the foregoing Lessor's interests shall control as to the use and disbursement of insurance funds for reconstruction of the improvements in the event of any casualty or damage to such improvements.**

While the Project, or any replacement thereof, is in the course of construction, and whenever appropriate while any alterations are in the course of being made, the aforesaid fire and extended coverage insurance shall be carried by Lessee in builder's risk form written on a completed value basis.

Notwithstanding anything to the contrary in the immediately preceding paragraph, in case of destruction of all of the improvements on the Demised Premises from any cause so as to make all units untenable occurring during the last ten (10) years of the Term of this Lease, Lessee, if not then in default under this Lease and if there is no leasehold

mortgage or other similar encumbrance on the Lessee's interest in the Demised Premises, may elect to terminate this Lease by written notice to Lessor within thirty (30) days after the occurrence of the destruction. In the event this Lease has been assigned to the Association, the Association must obtain any necessary vote to terminate. In the event of termination, there shall be no obligation on the part of Lessee to restore or repair the improvements on the Demised Premises, nor any right of the Lessee to receive any proceeds collected under any insurance policies covering the improvements. If Lessee elects not to terminate this Lease in the event of destruction during the last ten (10) years of this Lease, the proceeds of all insurance covering the improvements shall be made available to Lessee for repairs, and Lessee shall be obligated to repair as set forth above.

Section 10.02 Commercial General Liability Insurance. The Initial Lessee and the Association (upon assignment to the Association) shall maintain Commercial General Liability Insurance beginning on the Effective Date and continuing during the entire Term of this Lease. The Commercial General Liability Insurance shall cover those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form [ISO Form CG 00-01] as filed for use in Florida without the attachment of restrictive endorsements other than the elimination of medical payments and fire damage legal liability.

General Aggregate	\$1,000,000
Products/Completed Operations	\$2,000,000
[coverage for 3 years after project completion]	
Each Occurrence	\$1,000,000
Contractual Liability	\$1,000,000

Additional Named Insured: Lessor, or its assigns or designees, as from time to time designated, shall be included as additional insureds for Commercial General Liability.

Section 10.03 Environmental Impairment Responsibility. The Lessee and/or its contractors acknowledge that the performance of this Lease is, or may be, subject to Federal, State and local laws and regulations enacted for the purpose of protecting, preserving or restoring the environment. The Lessee shall at the sole cost of the Lessee or its Contractors, be responsible for full compliance with any such laws or regulations.

Section 10.04 Other Insurance. Lessee shall maintain such other insurance and in such amounts as may from time to time be reasonably required by the Lessor against other insurable hazards which at the time are commonly insured against in the case of construction of buildings and/or in the case of premises similarly situated, due regard being or to be given to the location, construction, use and occupancy. In the event the Lessee believes the Lessor's requirement for such additional insurance is unreasonable the reasonableness of Lessor's request shall be determined in accordance with the rules of the American Arbitration Association. Such determination as to the requirement of coverage and the proper and reasonable limits for such insurance then to be carried shall be binding on the parties and such insurance shall be carried with the limits as thus determined until such limits shall again be changed pursuant to the provisions of this Section. The expenses

of such determination shall be borne equally by the parties. This procedure may only be requested on each five (5) year anniversary date of the Lease.

Section 10.05 Proceeds Payable to Mortgagee. If any mortgagee holding a mortgage created pursuant to the provisions of Article XV elects, in accordance with the terms of such mortgage, to require that the proceeds of the insurance be paid to the mortgagee, then such payment shall be made, but in such event, it shall still be obligatory upon the Lessee to create the complete fund with the leasehold mortgagee in the manner set forth in this Article to assure and complete the payment for the work of reconstruction and repair. Any mortgagee holding insurance proceeds shall require such proceeds are properly used to ensure repairs.

Section 10.06 Damages; Insurance Proceeds; Joint Bank Account. Any excess of money received from insurance remaining in the joint bank account after the reconstruction or repair of such building or buildings, if the Lessee is not in default, shall be paid to the Lessee, and in the case of the Lessee not entering into the reconstruction or repair of the building or buildings within a period of six months from the date of payment of the loss, after damage or destruction occasioned by fire, windstorm, flood or other cause, and diligently prosecuting the same with such dispatch as may be necessary to complete the same in as short a period of time as is reasonable under the circumstances after the occurrence of such damage or destruction, then the amount so collected, or the balance thereof remaining in the joint account, as the case may be, shall be paid to the Lessor and it will be at the Lessor's option to terminate the Lease, unless terminated by Lessee within the last ten (10) years of the Lease as set forth above, and retain such amount as liquidated and agreed upon damages resulting from the failure of the Lessee to promptly, within the time specified, complete such work of reconstruction and repair.

Section 10.07 Direct Repayment. The foregoing notwithstanding, in the event the insurance proceeds are the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) or less, then such proceeds shall be paid directly to the Lessee without the necessity of creating the joint bank account, and Lessee shall use such funds to make the replacements or repairs. Lessee shall provide proof satisfactory to Lessor that repairs are completed as required within 180 days of the receipt of such insurance proceeds.

Section 10.08 General Requirements. All insurance to be provided by Lessee under this Lease shall be effected under valid and enforceable policies in such forms, issued by insurers of recognized financial responsibility qualified to do business in Florida which have been approved by Lessor, which approval shall not be unreasonably withheld. All policies of insurance provided for in this Article shall, to the extent obtainable, contain clauses or endorsements to the effect that (a) no act or negligence of Lessee or anyone acting for Lessee or for any Sublessee or occupant of the Demised Premises which might otherwise result in a forfeiture of such insurance or any part thereof shall in any way affect the validity or enforceability of such insurance insofar as Lessor, and that (b) such policy of insurance shall not be changed or cancelled without at least thirty (30) days written notice to the Lessor, and that (c) the Lessor shall not be liable for any premiums thereon or subject to any assessments thereunder.

Section 10.09 Subsequent Lessees, Assignees, Sublessees and Grantees. Any parties who subsequently become holders of any title or possessory interest to a portion of the Demised Premises, shall upon request provide, in a form satisfactory to Lessor, proof of customary and reasonable insurance adequate and sufficient to cover and protect all interests of the Lessor as set forth in this Article above, at least to the extent and value of that subsequent interest holder's insurable interest. The same procedures for the use and application of insurance proceeds as set forth above may be required for such subsequent interest holders and the same remedies for failure to comply with such insurance requirements available to Lessor with respect to the Initial Lessee shall also be available to Lessor as to any future interest holder in the Demised Premises, and such future interest holder shall name Lessor as an additional insured on any required insurance policies hereunder.

ARTICLE XI

Insurance Premiums

The Lessee shall pay premiums for all of the insurance policies which the Lessee is obligated to carry under the terms of this Lease. In the event Lessee fails to obtain and pay for the necessary insurance, Lessor shall have the right, but not the obligation, without notice to Lessee, to procure such insurance and/or pay the premiums of such insurance, in which case Lessee shall repay Lessor immediately upon demand by Lessor as additional rent. The Lessor shall have the same rights and remedies with respect to procurement of such insurance and/or payment of such insurance premiums in the event a future subsequent partial interest holder (e.g., Sublessee, Association) fails to obtain and pay for the necessary insurance.

ARTICLE XII

Assignment/Transfer

Section 12.01 Assignment by Initial Lessee. Without the written consent of Lessor, first obtained in each case, Initial Lessee shall not assign or sublet any portion of the Demised Premises, or change management of the Demised Premises, except as otherwise provided herein. Notwithstanding the foregoing, Lessor acknowledges and agrees that the Affordable Housing Units are to be developed as units for sale or rent to moderate income qualified third parties, as defined in the Affordable Restrictions; therefore, these units may be sold, rented and occupied without the Initial Lessee obtaining consent from Lessor for such sale/subletting, provided that Initial Lessee shall follow the guidelines set forth herein. In the event a unit is to be rented to a qualified third party, Lessor and Initial Lessee agree that said unit shall be rented by Initial Lessee at rates allowable for Affordable Housing for moderate income qualified third parties.

Upon the transfer/sale of each unit to be sold by Initial Lessee, or any successor

Lessee hereunder, Lessor or its designee shall attorn to the rights of Initial Lessee, or subsequent Lessee, as the case may be, with respect to each transferred/sold unit. In conjunction and contemporaneously with the sale or transfer of each such unit, Initial Lessee, or any successor Lessee, shall ensure the release of any and all mortgage, mechanic's lien or other similar claims with respect to the relevant portion of the Demised Premises other than new Sublessee purchase money mortgages and the like, as permitted in Article XV. Upon the transfer/sale of the last unit to be sold by Initial Lessee, Initial Lessee will be authorized to assign this Lease for any remaining property (common area) to a homeowners' condominium or similar Association to be created by the Initial Lessee for the unit owners. Any such Association and its related declaration, articles of incorporation, bylaws and any documents, exhibits or attachments, as may be amended, shall first be approved by Monroe County for compliance with the goals, purposes and intent of the Affordable Restrictions, which approval shall not be unreasonably withheld. No declaration or covenant related to such Association shall materially alter or impair the affordability and enforcement administration provisions of this Lease. Upon such assignment, Initial Lessee will be released from any liability related to this Lease, including but not limited to any liability discussed in Article IX, except that Initial Lessee shall remain liable to the extent Initial Lessee remains the owner of any units and is renting such units, notwithstanding design, construction and other defects for which developer/builders are otherwise responsible under the law. The unit owners (as Sublessees) and the Association shall assume all responsibilities of the Initial Lessee (with the exception of the consent for assignment of a sublease). Notwithstanding the foregoing, Initial Lessee's duty to find or identify a qualified purchaser, as set forth below, shall become the responsibility of the Lessor (unless assigned by Lessor as set forth below) for the resale of the Affordable Housing Units and shall not become the responsibility of the Association. It is hereby acknowledged that Lessor shall have the right to assign its duties and rights related to the assignment of subleases, i.e. finding a qualified purchaser for resales, or renter(s), in the case of rental units, to the Monroe County Housing Authority, or to any other governmental entity or profit or non-profit organization designated and approved by Monroe County. In the event this duty is assigned, reference to "Lessor" in this Section 12.01 shall also refer to that entity which accepts the duty.

Section 12.02 Initial Sale/Lease of Unit By Developer/Initial Lessee. Initial Lessee acknowledges that these units are being developed for affordable housing. Furthermore, Initial Lessee acknowledges that there shall be reserved by appropriate deed restriction, in a form approved by Lessor, a right of first refusal in favor of Lessor to purchase or designate purchasers for any affordable units offered for sale or lease. Initial Lessee shall provide Lessor with written notice of its intent to commence marketing efforts and Lessor shall have ninety (90) days from the date of receipt of the notice to Lessor to enter into a reservation agreement with Initial Lessee for the purchase/lease of all or a portion of the units. The Monroe County Housing Authority may provide the Initial Lessee with a list of pre-qualified individuals who shall be given first opportunity to purchase/lease a specified number of units at a purchase price/rental rate allowable under the Affordable Restrictions, but must do so reasonably promptly within the ninety (90) day notice period which Initial Lessee need not extend for this purpose. In the event that Lessor does not elect to purchase or designate purchasers for the units offered to it pursuant to such right of first refusal, Initial

Lessee shall be free to sell the units to individuals otherwise qualified to own/rent such units and subject to all other affordable housing covenants of record. Notwithstanding anything contained herein to the contrary, all purchasers/lessees of such affordable units shall meet Monroe County's requirements of moderate or lesser income affordable housing, adjusted for family size. All purchasers/lessees of the affordable units shall be required to execute a letter of acknowledgement in a form substantially as attached hereto and found on Exhibit ____.

Section 12.03 Assignment/Transfer by Sublessees. Lessor and Initial Lessee agree that Initial Lessee shall sublet each individual unit to the buyers of said units or the tenants of said units. At such time as any individual unit owner ("Sublessee") desires to sell, assign or otherwise transfer their units and interests, the Sublessee shall be required to follow the procedures set forth herein and such reasonable implementing procedures authorized or directed by Monroe County and any conveyance, transfer or other disposition and the acceptance of such transfers shall be deemed an automatic and irrevocable agreement to the conditions set forth herein.

Section 12.04 Required Notice of Restrictions. Any conveyance, lease, assignment, grant or other disposition of any interest made with respect to any portion of the Demised Premises other than those mortgage interests provided for in Article XV, shall contain the following required Notice of Restrictions in a conspicuous location on the upper one-half of the first page of the relevant instrument effectuating the interest, in bold capital typed letters greater than or equal to 14 point font:

NOTICE OF RESTRICTIONS

ANY INSTRUMENT OF CONVEYANCE, LEASE, ASSIGNMENT, GRANT OR OTHER DISPOSITION OF ANY INTEREST IN OR TO ANY PORTION OF THE DEMISED PREMISES OR TO ANY IMPROVEMENTS ERECTED THEREON WILL BE SUBJECT TO CERTAIN RESTRICTIONS INCLUDING BUT NOT LIMITED TO RIGHTS OF FIRST REFUSAL, USE, OCCUPANCY, INCOME, MEANS, RESALE PRICE, RENTAL AND MORTGAGE LIMITATIONS, INCLUDING BUT NOT LIMITED TO THOSE SET FORTH IN OFFICIAL RECORDS BOOK __, PAGE __ OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

The recorded book and page of this Lease and any other relevant previously recorded restrictions (e.g., homeowners' association governing documents or master unsatisfied/unreleased mortgages) affecting the respective portion of the Demised Premises shall be set forth in the Notice of Restrictions. Any instrument of conveyance, lease, assignment or other disposition made without following the notice procedures set forth herein shall be void and confer no rights upon any third person, though such instruments may in some cases be validated by fully correcting them according to procedures established by Lessor, as determined in Lessor's sole discretion so as to ensure compliance with the public affordability purposes furthered by this Lease and the Affordable Restrictions.

Section 12.05 Follow-on Sales or Rentals of Units and Assignments of Lease Requirements. In order for an owner or subsequent owner to sell or rent their unit and assign their Sublease they shall be required to comply with the following:

- a. Sublessee shall notify the Lessor in writing of their desire to sell or rent the unit and assign the sublease; said notice hereinafter referred to as a "Transfer Notice." The Transfer Notice shall include the proposed purchase price for the Affordable Housing Unit, and any other compensation permitted the Seller relating to the proposed sale, which shall be in accordance with the Affordable Restrictions.
- b. Lessor shall have forty-five (45) days from date of receipt of the written Transfer Notice to find or identify an income qualified purchaser or renter who meets the moderate or lesser income requirements for purchasing or renting the affordable unit. **Lessor may require that any unit originally sold as an affordable "ownership" and occupancy unit that is made the subject of any offer to rent or attempted or actual rental be deemed an irrevocable offer to sell pursuant to the terms of this Lease.**
 1. The sales price shall be the lesser of (i) the purchase price set forth in the Transfer Notice or (ii) the highest price permitted under the Affordable Restrictions. All additional terms of the contract shall be consistent with the Affordable Restrictions. Sublessee hereby agrees to execute a contract with a pre-qualified purchaser identified by the Lessor and to cooperate with reasonable closing procedures so long as they meet the Affordable Restrictions.
 2. In the event Lessor finds an income qualified purchaser, Lessor will assist in coordinating the closing on the affordable unit. The closing shall be scheduled to occur within seventy-five (75) days from the effective date of the contract for the sale of the unit, unless extended by the mutual agreement of the parties.
- c. In the event Lessor fails to identify an income qualified purchaser who enters into a purchase contract within forty-five (45) days and who closes as provided above, and provided that Sublessee has fully complied with all required Lease and related procedures, Sublessee shall be entitled to sell the property to an income qualified purchaser pursuant to the terms set forth in the complying Transfer Notice. In this event, Sublessee shall first obtain approval from the Lessor in order to allow Lessor the ability to review the proposed contract terms to ensure that the purchase terms and the potential purchaser meet the requirements for purchasing the affordable housing unit, which approval shall not be unreasonably withheld. Sublessee shall provide Lessor with a full copy of a written purchase and sale contract (and all

addenda) within three (3) business days of full execution of the purchase and sale contract, and said contract shall state that it and the proposed purchaser are subject to the approval of the Lessor. Lessor shall have fifteen (15) business days to review the terms of the purchase and sale contract. In the event Lessor fails to provide Sublessee with written approval or any written objections within fifteen (15) business days from receipt of the contract, Lessor shall be deemed to have given the necessary approval of the proposed form and substance of the contract. Sublessee and the potential buyer shall also provide any other information Lessor reasonably deems necessary to verify purchaser/Sublessee qualifications. All purchase and sale contracts shall be deemed to be contingent on buyer and transaction qualifications under the Affordable Restrictions. Lessor and the proposed parties to a transfer transaction may agree to additional time periods necessary to verify full compliance with all aspects of the Affordable Restrictions. In no case shall Lessor, or its designees, be deemed to waive with respect to any party any requirement applicable to that party under the Affordable Restrictions where it turns out that such requirement was not in fact met, true or complied with, even in cases where a transaction might be customarily considered to have "closed." Lessor reserves, to itself and to its designees, all legal and equitable rights it deems necessary or appropriate to ensure that all portions of the Demised Premises are used for the public purposes for which they were intended.

- d. Lessor shall be deemed reasonable in withholding its approval for any proposed sale if the purchase terms and purchaser do not meet the requirements as set forth in the Affordable Restrictions. After the Lessor has reviewed and approved a contract, Sublessee shall not have the ability to amend the terms of the contract unless Sublessee obtains Lessor's approval. The Sublessee shall only transfer their leasehold interest to an approved income qualified person, as defined by the Affordable Restrictions for moderate or lesser income, or to Lessor in the event Lessor and Sublessee are unable to find an income qualified purchaser, and so long as Lessor chooses to purchase the Affordable Housing Unit, in Lessor's sole and absolute discretion. Additionally, after the expiration of the forty-five (45) day period described in Paragraph b above, and before Sublessee has found an income qualified purchaser, Lessor may, but is not obligated to, continue the search for an income qualified purchaser. In the event Lessor finds and identifies an income qualified purchaser prior to Sublessee doing so, the procedure set forth in Paragraph 2 shall be followed.
- e. Lessor hereby agrees that the procedures set forth in Paragraph b. above for "resales" shall also be adopted as required and used in the event the unit is used as a rental.

Section 12.06 Assignment by Lessor. This Lease is freely assignable by the Lessor, and upon such assignment, the Lessor's liability shall cease and Lessor shall be released

from any further liability. In the event the ownership of the land comprising the Leased Premises is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected.

Section 12.07 Death of a Unit Owner. In the event a unit owner dies, Lessor shall, unless for good cause shown, consent to a transfer of the leasehold interest to the spouse or child(ren) of the unit owner provided that such heirs state, in writing, that they have reviewed the terms of this Lease, and that they understand and accept the terms of this Lease by signing an acknowledgement, which is substantially in a form similar to that attached hereto as Exhibit _____. All heirs, devisees or legatees must demonstrate to the Lessor's reasonable satisfaction that they qualify for affordable housing as provided in the Affordable Restrictions. All estates and leasehold or other interests granted in or conveyed with respect to any of the Demised Premises do not extend to any degree so as to limit or inhibit the intent and operation of this Lease and the Affordable Restrictions, it being expressly and irrevocably accepted on behalf of all future Sublessees and all those who would or might succeed to their interests, that these Demised Premises and each and every portion thereof, for the entire Term of this Lease, are to be used as affordable housing according to the Affordable Restrictions. In the event the heirs of the decedent do not meet the requirements for affordable housing, such heirs shall not occupy the premises and shall not be entitled to possession, except and only to the extent that the Lessor permits same, under conditions that it determines furthers the goals and public purposes of this Lease and the Affordable Restrictions. Therefore, in such event, the heirs of the decedent shall transfer their interest in the unit in accordance with the provisions of this Article XII and cooperate with the Lessor in seeing that this is accomplished.

Section 12.08 Administrative Fees. The Lessor or its designee shall be entitled to charge three and one-half percent (3 1/2%) of the Purchase Price of the allowed and agreed purchase price for any transferred interest (other than simple security mortgage interests, which may be subject to other reasonable processing fees), as an administrative fee for coordinating the closing on any unit or Sublease, said fee to be paid by the selling unit owner at the time of closing. This fee does not include other seller and buyer closing related costs such as title insurance, documentary stamps, intangible taxes, prorated taxes, insurance, homeowners' assessments, loan expenses and the like. The Lessor or its designee shall be authorized to designate closing, escrow and title agents involved in all transactions subject to this Lease. Lessor or its designee may, from time to time, establish, promulgate and revise fees related to the administration of this Lease and any Subleases.

ARTICLE XIII

Condemnation

Section 13.01 Eminent Domain; Cancellation. If, at any time during the continuance of this Lease, the Demised Premises or any portion thereof is taken or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceedings and such abatement of the rent and other

adjustments made as shall be just and equitable under the circumstances. If the Lessor and the Lessee are unable to agree upon what division, annual abatement of rent or other adjustments as are just and equitable, within thirty (30) days after such award has been made, then the matters in dispute shall be determined in accordance with the rules of the American Arbitration Association. Such determination made by the arbitration shall be binding on the parties. If the legal title to the entire Demised Premises be wholly taken by condemnation, the Lease shall be cancelled.

Section 13.02 Apportionment. Although the title to the building and improvements placed by the Lessee upon the Demised Premises will pass to the Lessor, nevertheless, for purpose of condemnation, the fact that the Lessee placed such buildings on the Demised Premises shall be taken into account, and the deprivation of the Lessee's use (and any use of a Sublessee) of such buildings and improvements shall, together with the term of the Lease remaining, be an item of damage in determining the portion of the condemnation award to which the Lessee or Sublessee is entitled. In general, it is the intent of this Section that, upon condemnation, the parties hereto shall share in their awards to the extent that their interests, respectively, are depreciated, damaged, or destroyed by the exercise of the right of eminent domain. In this connection, if the condemnation is total, the parties agree that the condemnation award shall be allocated so that the then value of the property, as though it were unimproved property, shall be allocated to the Lessor, and the then value of the building or buildings thereon shall be allocated between the Lessor and Lessee after giving due consideration to the number of years remaining in the term of this Lease and the condition of the buildings at the time of condemnation.

ARTICLE XIV

Construction

Section 14.01 Requirement to Construct Project.

(a) Initial Lessee shall commence construction of the Project no later than ninety (90) days after the affordable unit allocations are tendered to Initial Lessee necessary for the construction of the Project, and shall substantially complete construction of all forty (40) units within twelve (12) months thereafter. The foregoing limitation of time for the completion of the Project may be extended by written agreement between the parties hereto.

(b) During the course of construction of the Project, Initial Lessee shall provide to the Lessor quarterly written status reports on the Project, and such other reports as may reasonably be requested by Lessor.

(c) The Project shall be constructed in accordance with the requirements of all laws, ordinances, codes, orders, rules and regulations of all governmental entities having jurisdiction over the Project, including, but not limited to, the Lessor.

(d) The Initial Lessee shall apply for and prosecute, with reasonable diligence, all necessary approvals, permits and licenses required by applicable Governmental Authorities for the construction, development, zoning, use and occupation of the Project. Lessor agrees to cooperate with and publicly support the Initial Lessee's effort to obtain such approvals, permits and licenses, provided that such approvals, permits and licenses shall be obtained at Initial Lessee's sole cost and expense. Nothing in this Lease is intended to or shall be construed to obviate or lessen any requirements for customary development approvals from any permitting authority, including the Lessor. Nothing in this Lease shall be construed as the Lessor's delegation or abdication of its zoning authority or powers and no zoning approval that Initial Lessee may require to complete its performance under this Lease has been or shall be deemed agreed to by this Lease.

(e) Construction of the Project on the Demised Premises during the Term of this Lease shall be performed in a good and workmanlike manner, pursuant to written contracts with licensed contractors and in accordance with any and all requirements of local ordinances and with all rules, regulations and requirements of all departments, boards, officials and authorities having jurisdiction thereof. It is understood and agreed that the plans and specifications for all construction shall be prepared by duly qualified architects/engineers licensed in the State of Florida.

14.02 Access to the Project and Inspection. The Lessor or its duly appointed agents shall have the right, at all reasonable times upon the furnishing of reasonable notice under the circumstances (except in an emergency, when no notice shall be necessary), to enter upon the Leased Premises to examine and inspect the Project. The Initial Lessee hereby covenants to execute, acknowledge and deliver all such further documents and do all such other acts and things necessary to grant to the Lessor such right of entry. This right of access and inspection shall survive completion of the Project and shall be broadly construed to permit Lessor, or its designees, rights of access and inspection to any portion of the Demised Premises to the extent that such access and inspection are reasonably justified to protect and further the Lessor's continuing interest in the Demised Premises, as determined in Lessor's reasonable discretion. Lessor's designees, for purposes of this Article 14.02, shall include city, county or State code or building inspectors, and the like, without limitation.

14.03 Forced Delay in Performance. Notwithstanding any other provisions of this Lease to the contrary, the Initial Lessee shall not be deemed to be in default under this Lease where delay in the construction or performance of the obligations imposed by this Lease are caused by war, revolution, labor strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions, embargoes, litigation (excluding litigation between the Lessor and the Initial Lessee), tornadoes, severe tropical or other severe weather events, inability to obtain or secure necessary labor, materials or tools, delays of any contractor, subcontractor, or supplier, acts or failures to act by the Lessor, or any other causes beyond the reasonable control of the Initial Lessee. The time of performance hereunder shall be extended for the period of any forced delay or delays caused or resulting from any of the foregoing causes.

ARTICLE XV

Mortgage Financing

Section 15.01 Construction Financing By Initial Lessee. Initial Lessee shall have the right to mortgage its interests in the Demised Premises.

(a) The Initial Lessee shall have the right to encumber by mortgage or other proper instrument, Initial Lessee's interest under this Lease, together with all buildings and improvements placed by Initial Lessee on the Demised Premises, to a Federal or State Savings & Loan Association, Bank or Trust Company, Insurance Company, Pension Fund or Trust (or to a private lender so long as the terms and conditions of the financing from private lender are on substantially similar terms to those then existing by the other lenders referred to in this section), or similar lending institution authorized to make leasehold mortgage loans in the State of Florida, subject to the requirements that any conveyance, mortgage, note, lease, assignment, grant or other disposition or encumbrance of any interest made with respect to any portion of the Demised Premises shall contain the following required Notice of Restrictions in a conspicuous location on the upper one-half of the first page of the relevant instrument relating to the interest, in bold and capital typed letters greater than or equal to 14 point font:

NOTICE OF RESTRICTIONS

ANY INSTRUMENT OF CONVEYANCE, MORTGAGE, NOTE, LEASE, ASSIGNMENT, GRANT OR OTHER DISPOSITION OR ENCUMBRANCE OF ANY INTEREST OF ANY PORTION OF THE DEMISED PREMISES WILL BE SUBJECT TO CERTAIN RESTRICTIONS INCLUDING BUT NOT LIMITED TO RIGHTS OF FIRST REFUSAL, USE, OCCUPANCY, INCOME, MEANS, RESALE PRICE, RENTAL AND MORTGAGE LIMITATIONS, INCLUDING BUT NOT LIMITED TO THOSE SET FORTH IN OFFICIAL RECORDS BOOK __, PAGE __ OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

The recorded book and page of this Lease and any other relevant previously recorded restrictions (e.g., homeowners' association governing documents or master unsatisfied/unreleased mortgages) affecting the respective portion of the Demised Premises shall be included in the Notice of Restrictions; and,

(b) Initial Lessee shall present a full copy of any proposed mortgage(s) or other instrument(s) (and any addenda) to and obtain written approval from Lessor, which approval shall not be unreasonably withheld.

(c) Until the time the leasehold mortgage(s) shall be satisfied of record, when giving notice to the Initial Lessee with respect to any default under the provisions of this Lease, the Lessor shall also serve a copy of such notice upon the Initial Lessee's

leasehold mortgagee(s) who have previously provided written notice to Lessor of their contact address information for such notice purposes, including any changes thereto. No such notice to the Initial Lessee shall be deemed to have been given unless a copy of such notice has been mailed to such leasehold mortgagee(s), which notice must specify the nature of each such default.

(d) In case the Initial Lessee shall default under any of the provisions of this Lease, the Initial Lessee's leasehold mortgagee shall have the right to cure such default whether the same consists of the failure to pay rent or the failure to perform any other matter or thing which the Initial Lessee is required to do or perform and the Lessor shall accept such performance on the part of the leasehold mortgagee as though the same had been done or performed by the Initial Lessee. The leasehold mortgagee, upon the date of mailing by Lessor of the notice referred to in subparagraph (c) of this Section 15.01 shall have, in addition to any period of grace extended to the Initial Lessee under the terms and conditions of this Lease for a non-monetary default, a period of sixty (60) days within which to cure any non-monetary default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of the Initial Lessee for failure to pay rent, or failure to pay any amount otherwise required under the terms of this Lease (e.g., including, but not limited to, taxes or assessments), the leasehold mortgagee shall have thirty (30) days from the date the notice of default was mailed to the mortgagee within which to cure such default.

(e) In the event of the termination of this Lease with Initial Lessee for defaults described in this Article XV, or of any succeeding Lease made pursuant to the provisions of this Section 15.01(e) prior to the cure provisions set forth in this Section 15.01(d) above, the Lessor will enter into a new Lease of the Demised Premises with the Initial Lessee's leasehold mortgagee, or, at the request of such leasehold mortgagee, to a corporation formed by or on behalf of such leasehold mortgagee or by or on behalf of the holder of the note secured by the leasehold mortgage held by such leasehold mortgagee, for the remainder of the term, effective on the date of such termination, at the rent and upon the covenants, agreements, terms, provisions and limitations contained in this Lease, provided that such leasehold mortgagee makes written request and executes, acknowledges and delivers to the Lessor such new Lease within thirty (30) days from the date of such termination and such written request and such new Lease is accompanied by payment to the Lessor of all amounts then due to the Lessor, including reasonable counsel fees, court costs and disbursements incurred by the Lessor in connection with any such default and termination as well as in connection with the execution, delivery and recordation of such new Lease, less the net income collected by the Lessor subsequent to the date of termination of this Lease and prior to the execution and delivery of the new Lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the rent thereafter becoming due under such new Lease. Any new Lease referred to in this Section 15.01(e) shall not require any execution, acknowledgement or delivery by the Lessor in order to become effective as against the Lessor and the Lessor shall be deemed to have executed, acknowledged and delivered any such new Lease immediately upon receipt by the Lessor; and such new Lease shall be accompanied by (i) payment to the Lessor all amounts then due to the Lessor of which the leasehold mortgagee shall theretofore have received

written notice; and (ii) an agreement by the leasehold mortgagee to pay all other amounts then due to the Lessor of which the leasehold mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by the Lessor such new Lease, as provided in this Section 15.01(e), the Lessor shall be deemed to have executed, acknowledged and delivered to the leasehold mortgagee an assignment of all Subleases covering the Demised Premises which theretofore may have been assigned and transferred to the Lessor and all Subleases under which Sublessees shall be required to attorn to the Lessor pursuant to the terms and conditions of such Subleases or this Lease. Such assignment by the Lessor shall be deemed to be without recourse as against the Lessor. Within ten (10) days after a written request therefore by the leasehold mortgagee, such assignment or assignments shall be reduced to a writing in recordable form and executed, acknowledged and delivered by the Lessor to the leasehold mortgagee.

(f) The Initial Lessee's leasehold mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, which shall not require Lessor's consent, whereupon such leasehold mortgagee shall immediately become and remain liable under this Lease as provided in Section 15.01(g) below.

(g) In the event that a leasehold mortgagee, or any other party acquiring an interest shall become the owner or holder of the Lessee's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Initial Lessee," as used in this Lease, means only the owner or holder of the Lessee's interest for the time period that such leasehold mortgagee is the owner or holder of the Lessee's interest, which period shall not exceed 120 days without express written agreement by the Lessor, which extension agreement may be withheld for any reason. Accordingly, in the event of a sale, assignment or other disposition of the Initial Lessee's interest in this Lease by the leasehold mortgagee, where leasehold mortgagee took title or ownership of or to any or all of the Initial Lessee's interest in the Lease and/or any portion of the Demised Premises as a result of foreclosure or acceptance of an assignment in lieu thereof, the leasehold mortgagee shall be entirely freed and relieved of all covenants and obligations of performance relating to construction, marketing and transfer to Sublessees during the 120 day period during which it has a right to find a substitute Initial Lessee under this Lease and it shall be deemed and construed, without further agreement between the Lessor and the mortgagee, or between the Lessor, the mortgagee and the mortgagee's purchaser or assignee at any such sale or upon assignment of Initial Lessee's interest by the leasehold mortgagee, that the purchaser or assignee of Initial Lessee's interest has assumed and agreed to carry out any and all covenants and obligations of Initial Lessee, including but not limited to the construction of the affordable housing units contemplated herein. In no event shall any protections afforded a leasehold mortgagee under this Lease be construed to permit eventual use of the Demised Premises for purposes inconsistent with the Affordable Restrictions.

(h) Within ten (10) days after written request by Initial Lessee or by Initial Lessee's leasehold mortgagee, or in the event that upon any sale, assignment or mortgaging of Initial Lessee's interest in this Lease by Initial Lessee or Initial Lessee's leasehold

mortgagee, an offset statement shall be required from the Lessor, the Lessor agrees to deliver in recordable form a certificate to any proposed leasehold mortgagee, purchaser, assignee or to Initial Lessee, certifying (if such be the case) (i) that this Lease is in full force and effect; (ii) that the Lessor has no knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iii) that there are no defenses or offsets which are known and may be asserted by the Lessor against the Lessee in respect of obligations pursuant to this Lease.

(i) So long as the Initial Lessee's interest in this Lease shall be mortgaged to a leasehold mortgagee, the parties agree for the benefit of such leasehold mortgagee, that they shall not surrender or accept a surrender of this Lease or any part of it, nor shall they cancel, abridge or otherwise modify this Lease or accept material prepayments of installments of Rent to become due without the prior written consent of such mortgagee in each instance.

(j) Reference in this Lease to acquisition of the Initial Lessee's interests in this Lease by the leasehold mortgagee shall be deemed to refer, where circumstances require, to acquisition of the Initial Lessee's interest in this Lease by any purchaser at a sale on foreclosure of the leasehold mortgage and provisions applicable to the leasehold mortgagee in such instance or instances shall also be applicable to any such purchaser.

(k) So long as the Initial Lessee's interest in this Lease shall be mortgaged to a leasehold mortgagee, the parties agree for the benefit of such leasehold mortgagee that the Lessor shall not sell, grant or convey to the Initial Lessee all or any portion of the Lessor's fee simple title to the Demised Premises without the prior written consent of such leasehold mortgagee. In the event of any such sale, grant or conveyance by the Lessor to the Initial Lessee, the Lessor and the Lessee agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Demised Premises. This subparagraph (k) shall not be construed to prevent a sale, grant or conveyance of the Lessor's fee simple title by the Lessor to any person, firm or corporation other than the Initial Lessee, its successors, legal representatives and assigns, so long as this Lease is not terminated.

(l) Reference in this Lease to the Initial Lessee's leasehold mortgagee shall be deemed to refer where circumstances require to leasehold mortgagee's assignee(s); provided that such assignee(s) shall record a proper assignment instrument in the Public Records of Monroe County, Florida, and shall forward to the Lessor a certified true copy of same, together with a written notice setting forth the name and address of the assignee.

(m) In conjunction and contemporaneously with the sale or transfer of each affordable unit, leasehold mortgagee shall make arrangement to ensure the release of any and all applicable portions of its mortgage on the entire Demised Premises so as to grant clear title to the Sublessee. The details and release payment requirements shall remain within the reasonable business discretion of the initial Lessee and the leasehold mortgagee.

Section 15.02 Permitted Mortgages for Sublessees (Unit Owners). The individual unit owners ("Sublessees") shall have the right to encumber by mortgage their interest in the Sublease or any associated portions of the Demised Premises for and related interests in the individual units to a Federal or State Savings Loan Association, Bank, Trust Company or similar lending institution, subject to the following requirements:

(a) The mortgage(s) encumbering the Affordable Housing Unit shall not exceed 95% of the maximum allowable sale price of the Affordable Housing Unit as set forth in the Affordable Restrictions;

(b) Sublessees shall not be entitled to mortgage the leasehold interest in the event the terms of the note, which is secured by the mortgage, may result in negative amortization; and

(c) Except for those certain alternative methods allowed with respect to mortgage and note instruments in favor of institutional lenders as set forth below, any instrument of conveyance, mortgage, note, lease, assignment, grant or other disposition or encumbrance of any interest with respect to any portion of the Demised Premises, shall contain the following required Notice of Restrictions in a conspicuous location on the upper one-half of the first page of any such instrument, in bold and typed capital letters greater than or equal to 14 point font:

NOTICE OF RESTRICTIONS

ANY INSTRUMENT OF CONVEYANCE, MORTGAGE, NOTE, LEASE, ASSIGNMENT, GRANT OR OTHER DISPOSITION OR ENCUMBRANCE OF ANY INTEREST OF ANY PORTION OF THE DEMISED PREMISES WILL BE SUBJECT TO CERTAIN RESTRICTIONS INCLUDING BUT NOT LIMITED TO RIGHTS OF FIRST REFUSAL, USE, OCCUPANCY, INCOME, MEANS, RESALE PRICE, RENTAL AND MORTGAGE LIMITATIONS, INCLUDING BUT NOT LIMITED TO THOSE SET FORTH IN OFFICIAL RECORDS BOOK __, PAGE __ OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

An institutional lender financing a Sublessee's purchase or lease of an affordable unit may, alternatively, with respect to its mortgage, note and/or rider instruments only, provide the required "Notice of Restrictions" by recording an instrument contemporaneously with the recording of its mortgage (but which may be separate and apart from the mortgage instrument), in a form otherwise providing the notice required in this section as long as that separate recorded instrument references the property, borrower, lender and financing transaction (e.g. loan number) involved. Any instrument of conveyance, mortgage, note, encumbrance, lease, assignment or other disposition made without following the procedures set forth herein shall be void and confer no rights upon any third person, though such instruments may, in some cases, be validated by fully correcting them according to procedures established by Lessor, as determined in Lessor's sole reasonable discretion so as to

ensure compliance with the public affordability purposes furthered by this Lease and the Affordable Restrictions. Lessor's corrective procedures shall ensure compliance with the public affordability purposes furthered by this Lease and the Affordable Restrictions; and, shall, as a minimum, permit the correction of an institutional lender's mortgage instruments to the full extent necessary to protect the Lender's financial interest in any portion of the Demised Premises to the extent that such financial interest does not exceed the allowable resale or rental value of such encumbered portion under the Affordable Restrictions.

(d) Sublessee shall present any proposed mortgage or other instrument to and obtain written approval by Lessor, which approval shall not be unreasonably withheld.

(e) In the event of foreclosure sale by a Sublessee's mortgagee or the delivery of an assignment or other conveyance to a Sublessee's mortgagee in lieu of foreclosure with respect to any real property subject to the provisions of this Lease, said mortgagee, or the purchaser at foreclosure, shall comply with the provisions of Article XII. No sale of any affordable unit shall be permitted at an amount in excess of that allowed under the Affordable Restrictions.

(f) The parties recognize that it would be contrary to the fundamental affordable housing concept of this Lease and an incentive to abuse Sublessee's authorization to encumber its leasehold interest with a mortgage if Sublessee could realize more in loan or sale proceeds than their permitted purchase or resale price as a result of any transaction. Accordingly, Sublessee hereby irrevocably assigns to Lessor (or the Monroe County Housing Authority or other Lessor designee) any and all net proceeds from the sale of any interest in the Demised Premises remaining after payment of costs of foreclosure and satisfaction of the lien of any mortgage which would have otherwise been payable to Sublessee, to the extent such net proceeds exceed the net proceeds that Sublessee would have received had the interests been sold pursuant to the Affordable Restrictions. Sublessee hereby authorizes and instructs the mortgagee or any party conducting the closing of a sale or transfer to pay the amount of said excess directly to Lessor. In the event, for any reason, such excess proceeds are paid to Sublessee, Sublessee hereby agrees to promptly pay the amount of such excess to Lessor.

ARTICLE XVI

Default

Section 16.01 Notice of Default. Lessee shall not be deemed to be in default under this Lease in the payment of rent or the payment of any other monies as herein required

unless Lessor shall first give to Lessee ten (10) days written notice of such default and Lessee fails to cure such default within such ten (10) days of receipt of said notice.

Except as to the provisions or events referred to in the preceding paragraph of this section, Lessee shall not be deemed to be in default under this Lease unless Lessor shall first give to Lessee thirty (30) days written notice of such default, and Lessee fails to cure such default within such thirty (30) day period or, if the default is of such a nature that it cannot be cured within thirty (30) days, Lessee fails to commence to cure such default within such period of thirty (30) days or fails thereafter to proceed to the curing of such default with all possible diligence.

Regardless of the notice and cure periods provided herein, in the event that more rapid action is required to preserve any right or interest of the Lessor in the Demised Premises or other detrimental occurrence (such as, but not limited to, payment of insurance premiums, actions to prevent construction or judgment lien foreclosures or tax sales), then the Lessor is empowered to take such action and to request reimbursement or restoration from the Lessee as appropriate.

Section 16.02 Default. In the event of any breach of this Lease by Lessee, Lessor, and after the necessary notice provided to Initial Lessee's leasehold mortgagee, in addition to the other rights or remedies it may have, shall have the immediate right to terminate this Lease according to law. Furthermore, in the event of any breach of this Lease by Lessee, Lessor, in addition to the other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Demised Premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Lessee.

Included in this right of reentry shall be any instance wherein a Sublessee renounces the Lease or a Sublease or abandons the Demised Premises, in which case Lessor may, at its option, in an appropriate case, obtain possession of the abandoned property in any manner allowed or provided by law, and may, at his option, re-let the repossessed property for the whole or any part of the then unexpired term, receive and collect all rent payable by virtue of such reletting, and hold Sublessee liable for any difference between the rent that would have been payable under this Lease and the net rent for such period realized by Lessor, by means of such reletting. However, such Lessor rights shall not abrogate a mortgagee's rights to the extent those rights do not conflict with or injure Lessor's interests as established under this Lease. Personal property left on the premises by a Sublessee may be stored, sold, or disposed of by Lessor, and Lessor accepts no responsibility other than that imposed by law. Any Sublease shall contain the following warning prominently set forth in writing:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY CHAPTER 83 FLORIDA STATUTES, THE LESSOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE LESSEE'S PERSONAL PROPERTY.

Should Lessor elect to re-enter, as herein provided, or should Lessor take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may either terminate this Lease or it may from time to time, without terminating this Lease, re-let the Demised Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rent or rents and on such other terms and conditions as Lessor in its sole reasonable discretion may deem advisable with the right to make alterations and repairs to the Demised Premises. On each such re-letting:

(a) Lessee shall be immediately liable to pay to Lessor, in addition to any indebtedness other than Rent due under this Lease, the expenses of such re-letting and of such alterations and repairs, incurred by Lessor, and the amount, if any, by which the rent reserved in this Lease for the period of such re-letting (up to but not beyond the term of this Lease) exceeds the amount agreed to be paid as rent for the Demised Premises for such period of such re-letting.

Notwithstanding any such re-letting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach. Should Lessor at any time terminate this Lease for any breach, in addition to any other remedy it may have, Lessor may recover from Lessee all damages incurred by reason of such breach, including the cost of recovering the Demised Premises, which amounts shall be immediately due and payable from Lessee to Lessor.

Section 16.03 Lessor's Right to Perform. In the event that Lessee, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Lease and such failure shall continue for a period of thirty (30) days after receipt of written notice from Lessor specifying the nature of the act or thing to be done or performed, then Lessor may, but shall not be required to, do or perform or cause to be done or performed such act or thing (entering on the Demised Premises for such purposes, with notice, if Lessor shall so elect), and Lessor shall not be or be held liable or in any way responsible for any loss, inconvenience or annoyance resulting to Lessee on account thereof, and Lessee shall repay to Lessor on demand the entire expense thereof, including compensation to the agents and employees of Lessor. Any act or thing done by Lessor pursuant to the provisions of this section shall not be construed as a waiver of any such default by Lessee, or as a waiver of any covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of Lessor, hereunder or otherwise. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when the amounts become due as provided in this Lease, shall bear interest from the date they become due until paid at the highest rate allowed by law.

Section 16.04 Default Period. All default and grace periods shall be deemed to run concurrently and not consecutively.

Section 16.05. Affordable Restrictions. **In the event any portion of the**

Demised Premises is used for purposes other than affordable housing, or Lessee or any Sublessees fail to comply with the Affordable Restrictions, such an occurrence will be considered a material default. In the foregoing event, Lessor (or the Initial Lessee in the event of and with respect only to a default by a particular Sublessee) may immediately terminate the Lease or Sublease. Lessee hereby agrees that all occupants shall use the Leased Premises and Improvements for affordable residential purposes only and any incidental activities related to the residential use that are permitted by applicable zoning law.

ARTICLE XVII

Repair Obligations

During the continuance of this Lease the Lessee, and every Sublessee with respect to their leased or purchased portions of the Demised Premises, shall keep in good state of repair any and all buildings, furnishings, fixtures, landscaping and equipment which are brought or constructed or placed upon the Demised Premises by the Lessee, and the Lessee shall not suffer or permit any strip, waste, or neglect of any building or other property to be committed, except for that of normal wear and tear. The Lessee will repair, replace and renovate such property as often as it may be necessary in order to keep the buildings and other property which is the subject matter of this Lease in first class repair and condition. Additionally, Lessor shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning or water or to make any repairs to the premises or Affordable Housing Units.

ARTICLE XVIII

Additional Covenants of Lessee, Lessor

Section 18.01 Legal Use. The Lessee covenants and agrees with the Lessor that the Demised Premises will be used primarily for the construction and operation of a multi-unit affordable housing complex and the other matters as may be set forth in this Lease, with related amenities and facilities, and for no other purposes whatsoever without Lessor's written consent.

Section 18.02 Termination. At the termination of this Lease the Lessee will peaceably and quietly deliver possession of the Demised Premises, unless the Lease is extended as provided herein. Therefore, Lessee shall surrender the improvements together with the leased premises. Ownership of some or all improvements shall thereupon revert to Lessor, at its option as to which improvements Lessor might like to require, provided, however, that for any such improvements, Lessor shall promptly pay the individual unit owners, as consideration for the improvements, an amount not to exceed the allowed purchase price according to the Affordable Restrictions.

Section 18.03 Recovery of Litigation Expense. In the event of any suit, action or proceeding, at law or in equity, by either of the parties hereto against the other, or any other person having, claiming or possessing any alleged interest in the Demised Premises, by reason of any matter or thing arising out of or relating to this Lease, including any eviction proceeding, the prevailing party shall recover not only its legal costs, but reasonable attorneys' fees including appellate, bankruptcy and post-judgment collection proceedings for the maintenance or defense of said action or suit, as the case may be. Any judgment rendered in connection with any litigation arising out of this Lease shall bear interest at the highest rate allowed by law. Lessor may recover reasonable legal and professional fees attributable to administration, enforcement and preparation for litigation relating to this Lease or to the Affordable Restrictions from any person or persons from or to whom a demand or enforcement request is made, regardless of actual initiation of an action or proceeding.

Section 18.04 Condition of the Demised Premises. Lessee agrees to accept the Demised Premises in its presently existing condition "as-is". It is understood and agreed that the Lessee has determined that the Demised Premises are acceptable for its purposes and hereby certifies same to Lessor. Lessee, at its sole cost and expense, shall bring or cause to be brought to the Demised Premises adequate connections for water, electrical power, telephone, stormwater and sewage and shall arrange with the appropriate utility companies for furnishing such services with no obligation therefore on the part of Lessor. The Lessor makes no express warranties and disclaims all implied warranties. Lessee accepts the property in the condition in which it currently is without representation or warranty, express or implied, in fact or by law, by the Lessor, and without recourse to the Lessor as to the nature, condition or usability of the Demised Premises, or the uses to which the Demised Premises may be put. The Lessor shall not be responsible for any latent defect or change of condition in the improvements and personalty, or if title, and the Rent hereunder shall not be withheld or diminished on account of any defect in such title or property, any change in the condition thereof, any damage occurring thereto, or the existence with respect thereto of any violations of the laws or regulations of any governmental authority.

Section 18.05 Hazardous Materials. Lessee, its Sublessees and assignees shall not permit the presence, handling, storage or transportation of hazardous or toxic materials or medical waste ("hazardous waste") in or about the Demised Premises, except in strict compliance with all laws, ordinances, rules, regulations, orders and guidelines of any government agency having jurisdiction and the applicable board of insurance underwriters. In no event shall hazardous waste be disposed of in or about the Demised Premises. For purposes herein, the term hazardous materials or substances shall mean any hazardous, toxic or radioactive substance material, matter or waste which is or becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement and shall include petroleum products and asbestos as well as those materials defined as hazardous substance or hazardous waste in the Comprehensive Environmental Response Compensation and Liability Act and/or the Resource Conservation and Recovery Act.

Lessee shall notify Lessor immediately of any discharge or discovery of any hazardous waste at, upon, under or within the Demised Premises. Lessee shall, at its sole cost and expense, comply with all remedial measures required by any governmental agency having jurisdiction.

Lessor hereby warrants and represents that to its knowledge, the Demised Premises is free of any hazardous waste.

ARTICLE XIX

Representations, Warranties of Title and Quiet Enjoyment

Lessor and Lessee represent and warrant that to their knowledge, there are no material claims, causes of action or other proceedings pending or threatened in respect to the ownership, operation or environmental condition of the Demised Premises or any part thereof. Additionally, the Lessor and Lessee covenant and agree that so long as the Lessee keeps and performs all of the covenants and conditions required by the Lessee to be kept and performed, the Lessee shall have quiet and undisturbed and continued possession of the Demised Premises from claims by Lessor.

ARTICLE XX

Miscellaneous

Section 20.01 Covenants Running with Land. All covenants, promises, conditions and obligations herein contained or implied by law are covenants running with the land and shall attach and bind and inure to the benefit of the Lessor and Lessee and their respective heirs, legal representatives, successors and assigns, except as otherwise provided herein, but this provision shall in no way alter the restrictions on assignment and subletting applicable to Lessee hereunder.

Section 20.02 No Waiver. Time is of the essence in the performance of the obligations of the parties hereto. No waiver of a breach of any of the covenants in this Lease shall be construed to be a waiver of any succeeding breach of the same covenant.

Section 20.03 Written Modifications. No modification, release, discharge or waiver of any provisions hereof shall be of any force, effect or value unless in writing signed by the Lessor and Lessee, or their duly authorized agents or attorneys.

Section 20.04 Entire Agreement. This Lease, including the Preamble and any written addenda and all exhibits hereto (all of which are expressly incorporated herein by this reference) shall constitute the entire agreement between the parties as of this date. No prior written or prior or contemporaneous oral promises or representations shall be binding. The execution hereof has not been induced by either party by representations, promises or understandings not expressed herein and there are no collateral agreements,

stipulations, promises or undertakings whatsoever upon the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument. **[BUT SEE PURCHASE AND SALE AGREEMENT]**

Section 20.05 Notices. If either party desires to give notice to the other in connection with and according to the terms of this Lease, such notice shall be given by certified mail return receipt requested and it shall be deemed given when deposited in the United States mails with postage prepaid. Nothing herein contained shall be construed as prohibiting the parties respectively from changing the place at which notice is to be given, or the addition of one additional person or location for notices to be given, but no such change shall be effective unless and until it shall have been accomplished by written notice given in the manner set forth in this Section.

Section 20.06 Joint Liability. If the parties upon either side (Lessor and Lessee) consist of more than one person, such persons shall be jointly and severally liable on the covenants of this Lease.

Section 20.07 Liability Continued, Lessor Liability. All references to the Lessor and Lessee mean the persons who, from time to time, occupy the positions, respectively, of Lessor and Lessee. In the event of an assignment of this Lease by the Lessor, except for liabilities that may have been incurred prior to the date of the assignment, the Lessor's liability under this Lease shall terminate upon such assignment. In addition, the Lessor's liability under this Lease shall be at all times limited to the Lessor's interest in the Demised Premises.

Section 20.08 Captions. The captions used in this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of or in any way affect this Lease.

Section 20.09 Table of Contents. The index preceding this Lease under the same cover is for the purpose of the convenience of reference only and is not to be deemed or construed in any way as part of this Lease, nor as supplemental thereto or amendatory thereof.

Section 20.10 Governing Law, Venue. This Agreement shall be construed under the laws of the State of Florida, and the venue for any legal proceeding to enforce or determine the terms and conditions of this Lease shall be Monroe County, Florida.

Section 20.11 Holding Over. Any holding over after the expiration of the term of this Lease, with consent of Lessor, shall be construed to be a tenancy from month to month, at twice the monthly rent as required to be paid by Lessee for the period immediately prior to the expiration of the term hereof, and shall otherwise be on the terms and conditions herein specified, so far as applicable.

Section 20.12 Brokers. Lessor and Lessee covenant, warrant and represent that no broker was instrumental in consummating this Lease, and that no conversations or

negotiations were had with any broker concerning the renting of the Demised Premises. Lessee and Lessor agree to hold one another harmless from and against, and agree to defend at its own expense, any and all claims for a brokerage commission by either of them with any brokers.

Section 20.13 Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall at any time or to any extent be held invalid or unenforceable, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby.

Section 20.14 Force Majeure. If either party shall be delayed, hindered or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor trouble, inability to procure material, failure of power, riots, insurrection, severe tropical or other severe weather events, war or other reasons of like nature not the fault of the party delayed, in performing work or doing acts required under this Lease, the period for the performance of any such act shall be extended for a reasonable period.

Section 20.15 Landlord/Tenant Relationship, Third Party Beneficiaries. This Lease creates a landlord/tenant relationship, and no other relationship, between the parties. This Lease is for the sole benefit of the parties hereto and, except for assignments or Subleases permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

Section 20.16 Contingencies. This Lease Agreement is contingent upon Initial Lessee obtaining all necessary permits to build the affordable units described herein, as well as Initial Lessee obtaining adequate access for the unit owners to access their units at all times. Therefore, in the event Initial Lessee is unable to obtain permits or adequate access, Initial Lessee may terminate this Lease in its sole and absolute discretion. Initial Lessee hereby acknowledges that in the event Initial Lessee terminates this Agreement, Initial Lessee will not receive a reimbursement from Lessor for costs incurred by Initial Lessee prior to such termination.

Section 20.17 Radon Gas Notification. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may pose health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings. Additional information regarding radon and radon testing may be obtained from your county health unit. Lessor shall not be responsible for radon testing for any persons purchasing, leasing or occupying any portion of the Demised Premises, and all owners, Lessees and Sublessees shall hold Lessor harmless and indemnify Lessor for damages or claims related thereto.

Section 20.18 Mold Disclosure. Mold is a naturally occurring phenomenon that, when it has accumulated in a building in sufficient quantities, may pose health risks to persons who are exposed to it over time. Mold has been found in buildings in Monroe County. There are no measures that can guarantee against mold, but additional information regarding mold and mold prevention and health effects may be obtained from

your county health unit or the EPA or CDC. Lessee and Sublessees accept responsibility to inspect for mold and take measures to reduce mold.

IN WITNESS WHEREOF, the Lessor and the Lessee have hereunto set their hands and seals, the day and year above written.

Signed, Sealed and Delivered
in the presence of two witnesses:

LESSOR: MONROE COUNTY

Printed Name _____

By: _____
_____, _____

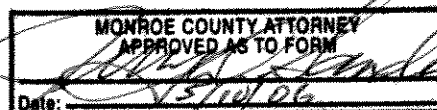
Printed Name _____
(as to Lessor)

LESSEE:

Printed Name _____

By: _____

Printed Name _____
(as to Lessee)



SCHEDULE "1"
COMMENCEMENT DATE AGREEMENT

This Agreement is made as of _____, 200_ by and between _____ ("Landlord") and _____ ("Tenant").

WHEREAS, Landlord and Tenant have entered into a Lease dated _____, 200_ for Premises designated on **Exhibit A** attached to the Lease;

WHEREAS, the Commencement Date, as defined in Article III of the Lease, has occurred; and pursuant to the Lease, Landlord and Tenant desire to confirm various dates relating to the Lease and the square footage of the Premises.

NOW THEREFORE, Landlord and Tenant agree and acknowledge that the information set forth below is true and accurate.

Commencement Date:

Initial Term Expiration Date:

The execution of this Agreement shall not constitute an exercise by Tenant of its option with respect to the Extended Term.

EXECUTED as a sealed instrument on the date first set forth above.

LANDLORD:

TENANT: .

By: _____
its

By: _____
its

EXHIBIT ____

LETTER OF ACKNOWLEDGEMENT

TO: Initial Lessee, or its assigns
Address of Initial Lessee, or its assigns

DATE: _____

This letter is given to (.....Initial Lessee.....) as an acknowledgement in regard to the Affordable Housing Unit that I am purchasing. I hereby acknowledge the following:

- That I meet the requirements set forth in the Affordable Restrictions to purchase an affordable unit.
- That the Affordable Housing Unit that I am purchasing is subject to a ground lease by and between _____ and _____ (hereinafter "Lease") and therefore I will be subleasing a parcel of land.
- That my legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction.
- That I understand the terms of the Lease and how the terms and conditions set forth therein will affect my rights as an owner of the Affordable Housing Unit, now and in the future.
- That I agree to abide by the Affordable Restrictions, as defined in the Lease.
- That I understand and agree that one of the goals of the Lease is to keep the Affordable Housing Units affordable from one owner to the next, and I support this goal.
- That in the event I want to sell my Affordable Housing Unit, I must comply with the requirements set forth in the Lease, including but not limited to the price for which I can sell.
- That my lease prohibits me from severing the improvements from the real property.
- That my family and I must occupy the Affordable Housing Unit and that it cannot be rented to third parties.
- I understand that in the event that I die, my home may be devised and occupied by my wife, my children or any other heirs so long as they meet the requirements for affordable housing as set forth in the Lease.
- That I have reviewed the terms of the Lease and that I consider said terms fair and necessary to preserve affordable housing.
- I hereby warrant that I have not dealt with any broker other than _____ in connection with the consummation of the purchase of the Affordable Housing Unit.

.....



APPRAISAL CO.

OF KEY WEST

RAL 05 1618-OR-01 Tradewinds Hammocks
II, LLC Proposed Condos
Lots 1 Thur 14, Blk 4, Ind. Acres Key Largo, FL

3228 Flagler Avenue, Suite #101
Key West, Florida 33040
Telephone: (305) 296-4588
Fax: (305) 296-0493

Website: fa-keysappraisals.com
Email: jim@fa-keysappraisals.com

July 21, 2005

Mr. William M. Fleming, III
Senior Vice President, Real Estate Support
BB&T
4600 New Bern Avenue, Suite 101
Raleigh, NC 27610

RE: Appraisal Report

Subject: "As Is" Market Value
"Land Residual Value" of Completed Construction of 52 Condominium Units
"Prospective Market Value" Discounted Sellout of 52 Condominium Units
Tradewinds II - Affordable Housing Project
Lots 1-14, Block 4, Industrial Acres plus Easement
Key Largo, Monroe County, Florida 33070

Our File No.: 221-05

BB&T File No.: RAL051618-OR-01

Dear Mr. Fleming:

We have performed a complete appraisal assignment and estimate of the value for the above referenced property. We have personally examined and appraised the property for the purpose of reporting to you our opinion of the *"As Is" Market Value* of the *Fee Simple Interest* of this property, Tradewinds II, an undeveloped vacant parcel with proposed development of 52 affordable housing condominium units, as of June 24, 2005. In addition, we are reporting our opinion of the *Land Residual Value Based on Completion of Construction, Condominiumization and Sellout* of the subject property, as of June 24, 2005 and we are reporting our opinion of the *Prospective Market Value of the Fee Simple Interest upon Completion of Construction, Condominiumization and Sellout* of the subject property, Tradewinds II, comprising the 52 affordable housing condominium units, as of August 2006.

The assumptions and the real estate referenced above are more clearly defined in the general and extraordinary assumptions and limiting conditions and in the property description section of this report. The attached self-contained appraisal report has been prepared to comply with our understanding of the requirements of the Uniform Standards of Professional Appraisal Practice.

Mr. William M. Fleming, III
Senior Vice President, Real Estate Support
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The subject site consists of a 14 contiguous rectangular shaped parcels of vacant land containing 3.528 acres plus an easement (vacated Troup Road) containing 1.337 acres for a total site size of 4.865 acres. Lots 1-14 front the northerly side of Burtonwood Lane for 1,377.49 feet (measured) and extend 110.91 feet (measured) in depth. The easement is a rectangular shape located north of parcels 3-14 and measures 1,152.61 in length and 50.0 feet in depth. The site was personally inspected by the appraisers. The site measurements were taken from a survey prepared by Beach Mapping and Surveying, dated September 19, 2003.

The development plans are to construct 6, one-bedroom, one-bath units containing 730 square feet of gross living area, 29 two-bedroom, two-bath units containing 995 square feet of gross living area and 17 three bedroom-two bath units containing 1,190 square feet of gross living area for a total project size of 53,465 square feet of gross living area. The complex consists of two 3 story buildings with each floor containing one, two and three bedroom flats type units. Building B-3 contains 34 units and an exercise room, office and clubhouse. Building B-4 contains 18 units for a total of 52 units. The complex will feature CBS/masonry construction, three stairwells and one elevator per building, and covered front and rear entries. Amenities include a heated pool, playground and picnic area. Interior finishes are of high quality with solid wood doors, carpet and ceramic tile floor coverings, textured drywall interior walls, wood kitchen cabinets with laminate countertops with countertop upgrades available. The building dimensions for the proposed construction were referenced from a survey prepared by D.L. Porter Construction dated October 18, 2004 and unit square footage calculations provided by Jim Kincaid, Developer. Any deviations from the reported sizes may result in a change in value. If and when a more recent survey is made available or if any discrepancies are noted due to dimensions, sizes, encroachments or easements, the appraisers reserve the right to change the final indicated value herein. Our valuation of the Prospective Market Value of the subject property is based on analysis of the proposed development project, which is considered to the Highest and Best Use of the subject property.

The proposed development is expected to be completed in an 8 month construction period beginning in August, 2005, according to Mr. Jim Kincaid, developer of the project. We have conservatively assumed the completion of the project's construction by July, 2006, which appears to be reasonable. The total gross living area of the complex is estimated at approximately 53,465 square feet, plus approximately 17,340 square feet of covered front and rear entries.

Market Value is defined as the most probable price in cash (or its equivalency) for which the appraised property will sell in a competitive market under all conditions requisite to a fair sale. Market value assumes a normal or reasonable time for exposure on the open market.

This report contains the results of our investigation and analysis made in order to furnish an estimate of the "As Is" Value of the Fee Simple Estate and the Land Residual Value of the Fee Simple Estate Based

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on Completion of Construction and Condominiumization and Sellout plus the Prospective Market Value of the Fee Simple Interest. Upon Completion of Construction and Condominiumization and Sellout of the property described herein. The Fee Simple Interest is the unencumbered value of the subject property; basically, market rents and terms are considered with no regard to existing leases and terms.

Based on analysis of market data, inspection, and research, it is our opinion that the "As Is" Market Value of the Fee Simple Interest of the subject property commonly known as Lots 1-14, Block 4, Industrial Acres plus Vacated Troup Road, Tradewinds II, Key Largo, Florida, subject to definitions, assumptions and limiting conditions as of June 24, 2005, is:

ONE MILLION SEVEN HUNDRED TWENTY THOUSAND DOLLARS
(\$ 1,720,000)

We are of the opinion that the *Land Residual Value of the Fee Simple Estate, Based on Completion of Construction, Condominiumization, and Sellout* of the subject property, and deducting hold, selling expenses, developer's incentive and construction costs, also subject to definitions, assumptions and limiting conditions, as of June 24, 2005 is:

TWO MILLION DOLLARS
(\$ 2,000,000)

In addition, we are also of the opinion that the *Prospective Market Value of the Fee Simple Estate, Upon Completion of Construction and Condominiumization and Sellout* of the proposed 52-Unit condominium, located at Lots 1-14, Block 4, Industrial Acres plus Vacated Troup Road, according to the current plans and specifications, and the condominiumization of the residential units, based on a sellout of the units, considering holding and selling expenses, plus deducting a developer's incentive, subject to definitions, assumptions and limiting conditions, as of July, 2006 is:

TEN MILLION TWO HUNDRED THOUSAND DOLLARS
(\$ 10,200,000)

The Prospective Market Value Upon Completion of Construction of the subject property does not include any personal property, furniture and equipment other than kitchen appliances which are considered typical in this market. Furthermore, we have assumed that all of the subject property's units will be sold and closed upon the completion of construction, based on current demand in the marketplace as evidenced by the absorption of competing projects.

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The valuations herein are subject to the issuance of occupancy permits for the new residential units, permits to construct, as well as to subdivide and condominiumize the property. The appraisers do not imply that the necessary permits and licenses will be issued. No responsibility is assumed for the issuance of required operating licenses or any other building and operating permits or certificates required by any regulatory agency having jurisdiction.

A Summary of Facts and Conclusions is provided in the front of this report. The Assumptions and Limiting Conditions may be found in Section I, followed by the Certification of Value in Section II. If you have any questions regarding this appraisal report, please feel free to contact us. Thank you for giving us the opportunity to provide this service for you.

Respectfully submitted,



James E. Wilson
State-Certified General Appraiser
Certification No. RZ 0002164



Polly J. Riddell
State Registered Trainee REA
Certification No. RI 13268

Report Attached: G:\Comm-05\221-05\Comm-05-221.wpd

MONROE COUNTY
OFFICIAL RECORDS

FILE #1178211
BK#1631 PG#2270



RCD May 08 2000 09:33AM
DANNY L. KOLHAGE, CLERK

MONROE COUNTY, FLORIDA
MINOR CONDITIONAL USE DEVELOPMENT ORDER # 1-00

A DEVELOPMENT ORDER APPROVING THE MINOR CONDITIONAL USE REQUEST OF THE HERITAGE COMPANIES AND MRT OF THE FLORIDA KEYS, FOR THE CONSTRUCTION OF A 122-UNIT AFFORDABLE HOUSING PROJECT KNOWN AS TRADEWINDS HAMMOCKS, ON PROPERTY LOCATED ADJACENT TO TRADEWINDS SHOPPING CENTER AND FURTHER DESCRIBED AS LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 4, INDUSTRIAL ACRES SUBDIVISION AND TRACT "E" TRADEWINDS, KEY LARGO, MONROE COUNTY, FLORIDA, MILE MARKER 101.5. THE LAND USE DESIGNATION IS URBAN RESIDENTIAL (UR), AND THE REAL ESTATE NUMBERS ARE 00455550, 00455560, 00455570, 00455580, 00455590, 00455600, 00455610, 00455620, 00455630, 00455640, 00455650, 00455660, 00455670, 00455680, 00455611-000500, 0045611-000600, 00455611-000700, 00455611-000800, 00455611-000900, 00455611-001000, AND 00455611-001100.

WHEREAS, The Heritage Companies and MRT of the Florida Keys, is the owner of real property described as Lots 1 through 14, inclusive, Block 4, Industrial Acres Subdivision, and Tract "E" of Tradewinds, Key Largo, Monroe County, Florida, Mile Marker 101.5; and

WHEREAS, The Heritage Companies and MRT of the Florida Keys applied for a Minor Conditional Use approval for the construction of Tradewinds Hammocks, a 122-unit affordable housing development in four buildings, with a 3,000 square foot clubhouse and a pool on property located in the Urban Residential land use district; and

WHEREAS, the Development Review Committee (DRC) of Monroe County, Florida, in accordance with the provisions of Sections 9.5-24 and 9.5-68 of the Monroe County Land Development Regulations, met to review the request of The Heritage Companies and MRT of the Florida Keys for approval of the Tradewinds Hammocks Minor Conditional Use application on February 10, 2000; and

WHEREAS, the Development Review Committee reviewed the following documents and other information relevant to the Tradewinds Hammocks Minor Conditional Use request:

1. The application for a Minor Conditional Use dated January 3, 2000 including a site plan prepared by Bender and Associates and dated December 28, 1999, revised January 31,

- 2000, a landscaping plan prepared by the Craig Company and dated December 22, 1999, revised January 31, 2000; and
2. The staff report prepared by Donny Lang, Planner, and Sandra Lee, Biologist, dated February 10, 2000; and
3. A Vegetation Survey and Habitat Evaluation Indices (HEIs) by Susan Sprunt of Environmental Consulting Systems, Inc.; and
4. Comments by members of the Development Review Committee; and

WHEREAS, based upon the information and documentary evidence submitted, the Development Review Committee adopted the following findings of fact and conclusions of law:

1. Based on the application, we find that a conceptual drainage plan was submitted and sent to the County Engineer. The site plan has been revised, but no revised site drainage plan has been submitted. The County Engineer has not reviewed or approved the conceptual drainage plan. Therefore, we conclude that the project is not in compliance with Section 9.5-293 of the Monroe County Code; and
2. Based on the submittal, we find that the Habitat Evaluation Index (HEI) submitted for Tract "E" was conducted under a previously used format. Therefore, we conclude that the HEI submitted is not in compliance with Section 9.5-336 of the Monroe County Code; and
3. Based on the landscape plan submitted, we find that a transplantation list or detailed plan was submitted on February 10, 2000. However, we have not had sufficient time to review the plan. Therefore, we conclude that the project is not in compliance with section 9.5-344 of the Monroe County Code; and
4. Based on the submittal, we find the applicant has not provided any evidence from the adjoining shopping center granting the affordable housing project to take access through the shopping center property. Therefore, we conclude that the project is not in compliance with Section 9.5-421 of the Monroe County Code; and
5. Based on comments from the Monroe County Traffic Consultant, we find that several issues remain unresolved with the traffic study submitted. Therefore we conclude the traffic study is not in compliance with Section 9.5-426 of the Monroe County Code; and
6. Based on the site plan, we find that clear site triangles are not shown at the intersection where the driveway for the affordable housing joins the shopping center. Therefore, we conclude that the project is not in compliance with Section 9.5-427 of the Monroe County Code; and
7. Based on the site plan, we find that the applicant has not provided for a safe and non-motorized transportation system. The two cul-de-sacs have 40-foot radii. The County Fire Marshal's office requires the cul-de-sacs to have 50-foot radii. In retaining the basketball court and relocating it about 10 feet north, we find that the entire 10-foot minimum side yard must be waived in order to construct a compliant cul-de-sac with a 50-foot radius on the portion of the project taking access from Samson Road. We find that the 165-foot portion of Buttonwood Lane running north/south currently has only a narrow dirt road. Buttonwood Lane will need to be developed with a 40-foot right of way and all other Monroe County standards, including those required by the Fire Marshal. We also find that an ADA-compliant sidewalk system throughout the project linking each building would

serve to provide safe walking and bicycling. This would require a waiver to the 10-foot minimum side yard in the location connecting Industrial Acres to Tract "E". Therefore, we find that the project as proposed is not in compliance with Goal 301 of the Comprehensive Plan, but that the project (site plan) could be modified to comply with the required 50-foot radius cul-de-sacs and the ADA-compliant sidewalk; and

8. Based on proposed rents, the Florida Housing Finance Corporation's HOME program, and Monroe County's 1999 maximum income levels, we find that the proposed project adequately addresses Goal 601 of the Year 2010 Comprehensive Plan. Therefore, we conclude that the project shall rent 20% of the units in the very-low category and rent 80% of the units in the low category and will therefore comply with Goal 601 of the Comprehensive Plan; and
9. Based on the letter of coordination from the FKAA, we find that a water main extension will be required prior to providing water service to the proposed project. However, a final approval determination cannot be made until a complete set of plans has been approved and submitted to Planning staff. Therefore, we conclude that compliance with Goal 701 of the Comprehensive Plan has not yet been determined; and
10. Based on a letter of coordination from the Department of Health, we find that the proposed sewage treatment plant and disposal system must comply with the minimum requirements in effect at the time that an application is submitted. However, we note that the size of the plant will require Department of Environmental Protection approval. Therefore, we conclude that compliance with Goal 1001 of the Comprehensive Plan cannot be determined at this time; and
11. Based on the submittal, we find that the applicant submitted a letter of coordination from the U.S. Fish and Wildlife Service on February 9, 2000, which is required by the Federal Emergency Management Agency (FEMA). However, we have not had sufficient time to review the letter. Therefore, we conclude that the project is not in compliance with the conditional use requirement of submittal of a coordination letter or with the U.S. Fish and Wildlife Service as required by FEMA Regulation 44 C.F.R. § 60.3(a)(2) which requires screening of permit applications for compliance with the Endangered Species Act; and
12. Based on the submittal, we find that the applicant has not received a road abandonment for Troupe Road and Buttonwood Lane or an agreement with the adjoining shopping center for their one-half interest in the abandoned Troupe Road. Therefore, we conclude that until all of Troupe Road and one-half of Buttonwood Lane are acquired by the applicant, the project does not comply with Section 9.5-64, Initiation, which states that an applicant for a development permit shall be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land for development; and
13. Based on the site plan, we find that a proposed road through the wetland setback at the southeast corner of the property, per DCA approval, is in violation of the required wetland setbacks. Therefore, we conclude that this proposed road is not in compliance with the April 15, 1997 Intergovernmental Agreement to Sections 9.5-286, 288, and 345(m); and
14. Based on representation from the Fish and Wildlife Conservation Commission, we find that the snail relocation permit (WX98048) has expired; and

WHEREAS, the Development Review Committee, based on its findings of fact and conclusions of law, recommended the approval with conditions of the application for Minor Conditional Use submitted by The Heritage Companies and MRT of the Florida Keys to the Director of Planning; and

WHEREAS, a revised site plan dated February 24, 2000 was submitted showing revised parking, all required clear site triangles, the need for the cul-de-sacs eliminated, an ADA-compliant sidewalk system linking elements of the development, the connecting road in the wetland setbacks totally eliminated, fences to protect open space areas, and the sewage treatment plant relocated to the west side of the driveway at Samson Road shall be submitted and approved by Planning and Environmental Resources Staff; and

WHEREAS, the Director of Planning has duly considered the recommendation of the Development Review Committee and the information and documentary evidence submitted by the applicant; and

WHEREAS, the Director of Planning finds the applicant has forty (40) affordable housing ROGO units and has been granted twenty-six (26) FEMA replacement unit credits by the Board of County Commissioners with the condition that all 66 units are constructed in Phase I, located on Tract "E"; and

WHEREAS, The Director of Planning finds that the project will not be limited to Monroe County residents; and

WHEREAS, the record established, the testimonies offered, and the evidence submitted, support the findings of fact adopted by the Development Review Committee; **NOW THEREFORE,**

BE IT RESOLVED BY THE DIRECTOR OF PLANNING OF MONROE COUNTY, FLORIDA, that:

The application for minor conditional use submitted by The Heritage Companies and MRT of the Florida Keys to construct Tradewinds Hammocks, a 122-unit affordable housing project in four buildings, and a 3,000 square foot clubhouse and a pool on property described as Lot 1 through 14, inclusive, Block 4, Industrial Acres Subdivision, and Tract "E" of Tradewinds Subdivision, Key Largo, Monroe County, Florida is hereby **APPROVED**, with the following conditions:

1. The applicant shall provide proof to the Director of Planning that demonstrates ownership of Lots 1 through 14, inclusive, Block 4, Industrial Acres Subdivision; and Tract "E" of Tradewinds Subdivision prior to the issuance of any building permit and within six months of the effective date of this development order or this order shall become null and void.
2. All forty (40) affordable housing ROGO units and twenty-six (26) FEMA replacement units shall be constructed in phase I and shall not be transferred or relocated from Tract E without approval of the Board of County Commissioners.
3. A revised conceptual drainage plan shall be reviewed and approved by the County Engineer prior to the issuance of a building permit.
4. A revised format Habitat Evaluation Index (HEI) for Tract "E" shall be submitted to Environmental Resources and Planning staff evidencing the hammock as "moderate" quality prior to the issuance of a building permit.

6. The applicant shall provide evidence from Phillips Shopping Center authorizing access for the use of the shopping center's driveways for ingress and egress to the 122-unit affordable housing project prior to the issuance of any building permit for any units located in Phase II.
7. The Traffic Study shall be revised and approved by the Monroe County Traffic Consultant prior to the issuance of any building permit.
8. The applicant shall fully develop the 165-foot portion of Buttonwood Lane running north/south to a 40-foot wide right of way and all other Monroe County standards including those required by the Fire Marshal prior to the issuance of a Certificate of Occupancy for any units located in Phase II.
9. The Director of Planning shall waive the 10-foot minimum yard requirement to accommodate an ADA-compliant sidewalk system linking Phase I and Phase II of the project.
10. The project shall be limited by County deed restrictions to 20% of the units renting to persons who qualify under the very-low income category of the Monroe County Code and to 80% of the units renting to persons who qualify under the low income category of the Monroe County Code.
11. The applicant shall provide proof to Planning staff that the project can be adequately served by the FKAA prior to the issuance of any building permit.
12. The applicant shall provide proof to Planning staff that the sewage treatment plant and disposal system comply with Department of Environmental Protection requirements prior to the issuance of any building permit.
13. The applicant shall provide documentation by the U.S. Fish and Wildlife Service that the proposed project is not likely to adversely affect any threatened or endangered species or critical habitat prior to the issuance of any building permit.
14. The Board of County Commissioners must approve a road abandonment for both Troupe Road and Buttonwood Lane and the applicant shall acquire the northern one-half (1/2) of Troupe Road from Phillips Shopping Center prior to the issuance of any building permit in Phase II.
15. The applicant shall renew or receive a new snail relocation permit prior to the issuance of any building permit.
16. The applicant shall submit a Grant of Conservation Easement Agreement (GOCEA) on the property which must be approved by the Board of County Commissioners to protect the required open space, including the mangroves, prior to the issuance of any building permit.

Date: 3/23/00

K. Marlene Conaway
K. Marlene Conaway
Director of Planning

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared K. Marlene Conaway, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of March, 2000.

Margatezanos
NOTARY PUBLIC, STATE OF FLORIDA
MARGATEZANOS
COMMISSION # CC 665990
EXPIRES MAY 19, 2000
BONDED THRU
ATLANTIC BONDING CO., INC.

REFERENCE: In the event that this development order constitutes an amendment, extension, variation, or alteration of a previous conditional use permit, that document may be referenced by the following "NONE"

NOTICE

Section 9.5-72. (a) of Monroe County Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

Under the authority of Section 9.5-72(a) of the Monroe County Land Development Regulations, this development order shall become null and void, with no further notice required by the County, unless a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the Monroe County Building Official within six (6) months of the expiration of the Department of Community Affairs appeal period or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured within two (2) years of the date this development order is approved by the Director of Planning.

If this development order is appealed under the Monroe County code or by the Department of Community Affairs, the above time limits shall be tolled until the appeals are resolved.

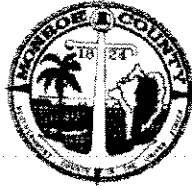
This instrument shall not take effect for thirty (30) working days following the date of memorialization thereof, and during that time permit shall be subject to appeal as provided in Section 9.5-52(d) of the Monroe County land development regulations. An appeal shall stay the effectiveness of this instrument until resolved.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Community Affairs may appeal this instrument to the Florida Land and Water Adjudicatory

FILE #1178211
BK#1631 PG#2276

Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

MONROE COUNTY
OFFICIAL RECORDS



MONROE COUNTY
OFFICIAL RECORDS

FILE #1249011
BK#1714 PG#2368

RCD Aug 01 2001 02:21PM
DANNY L. KOLHAGE, CLERK

RESOLUTION NO. P44-01

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION **APPROVING** THE REQUEST BY THE HERITAGE COMPANIES AND MRT OF THE FLORIDA KEYS FOR AN AMENDMENT TO MINOR CONDITIONAL USE DEVELOPMENT ORDER #1-00, WHICH APPROVED CONSTRUCTION OF A 122 UNIT AFFORDABLE HOUSING PROJECT KNOWN AS TRADEWINDS HAMMOCKS, WITH CONDITIONS, CONSISTING OF THE PROPERTIES KNOWN AS LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 4, INDUSTRIAL ACRES, AND TRACT "E" TRADEWINDS; AND ALL OF TROUPE ROAD AND THE NORTH HALF OF BUTTONWOOD LANE, KEY LARGO, MONROE COUNTY FLORIDA, MILE MARKER 101.5. THE LAND USE DESIGNATION IS URBAN RESIDENTIAL (UR) AND NATIVE AREA (NA) AND THE REAL ESTATE NUMBERS ARE 00455550.000000, 00455560.000000, 00455570.000000, 00455580.000000, 00455590.000000, 00455600.000000, 00455610.000000, 00455620.000000, 00455630.000000, 00455640.000000, 00455650.000000, 00455660.000000, 00455670.000000, 00455680.000000, 00455611.000500, 00454611.000700, 00454611.000800, 00454611.000900, 00454611.00100, AND 00454611.001100.

WHEREAS, The Heritage Companies and MRT of the Florida Keys is the owner of real property described as lots 1 through 14, inclusive, Block 4, Industrial Acres; and Tract "E" Tradewinds; and all of Troupe Road and the north half of Buttonwood Lane, Key Largo, Monroe County Florida; and

WHEREAS, the above described property is located in the Urban Residential (UR) and Native Area (NA) land use districts; and

WHEREAS, the Planning Commission of Monroe County, Florida, in accordance with the provisions of Sections 9.5-24 and 9.6-68 of the Monroe County Land Development Regulations, met to review the request of The Heritage Companies and MRT of the Florida Keys for approval of an Amendment to a Minor Conditional Use on June 27, 2001; and

WHEREAS, the Planning Commission reviewed the following information relevant to the request to amend the Minor Conditional Use Application for Phase One:

1. The application for an Amendment to a Minor Conditional Use dated April 3, 2001; and
2. Plans reviewed: Field survey prepared by David Massey, Professional Land Surveyor, dated February 4, 1999 and January 22, 1997; and Site Plan, Elevation drawings, and Floor Plans prepared by Bender and Associates, dated December 28, 1999; revised April 27, 2001, and a revised site plan dated June 26, 2001; and
3. Landscape Plan prepared by the Craig Company, dated December 22, 1999, revised January 18, 2000; and
4. Drainage Plans prepared by Allen Perez, PDE Engineering, dated December 27, 1999.
5. Project Overview and History; and
6. Various Appendices (A-K); and
7. The staff report prepared by Jeff Stuncard, Planner and Niko Reisinger, Biologist, dated June 13, 2001, and amended on June 22, 2001; and
8. The sworn testimony of Growth Management staff; and
9. Comments by John J. Wolfe, Planning Commission Counsel; and
10. Testimony of the applicant; and
11. Comments by the public; and
12. Exhibits 1-7; and

WHEREAS, the Planning Commission adopted the following findings of fact and conclusions of law:

1. Based on the application, we find that a conceptual drainage plan was submitted and sent to South Florida Water Management District. South Florida Water

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BK#1714 PG#2369

Management District has not approved the conceptual drainage plan. Therefore, we conclude that the project is not in compliance with Section 9.5-293 of the Monroe County Code; and

2. Based on the submittal, we find that a transplantation list or detailed plan must be submitted to staff. Therefore, we conclude that the project is not in compliance with section 9.5-344 of the Monroe County Code; and
3. Based on proposed rents, the Florida Housing Finance Corporation's HOME program, and Monroe County's 1999 maximum income levels, we find that the proposed project adequately addresses Goal 601 of the Year 2010 Comprehensive Plan. Therefore, we conclude that the project shall rent 20% of the units in the very-low category and rent 80% of the units in the low category and will therefore comply with Goal 601 of the Comprehensive Plan; and
4. Based on the submittal, we find that the applicant has not received a road abandonment for Troupe Road and Buttonwood Lane or an agreement with the adjoining shopping center for their one-half interest in the abandoned Troupe Road. Therefore, we conclude that until all of Troupe Road and one-half of Buttonwood Lane are acquired by the applicant, the project does not comply with Section 9.5-64, Initiation, which states that an applicant for a development permit shall be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land for development; and
5. Based on Development Order #1-00, we find that the proposed phased development was approved with total open space in excess of environmental code requirements. Based on the revised site plan submitted however, the applicant is unable to meet the the habitat open space requirements for moderate quality hammock of Sections 9.5-343 & 9.5-345 within phase one without adjusting the boundaries of phase one to include additional moderate quality hammock. Therefore, we conclude that the applicant must provide additional moderate quality hammock within phase one by expanding the boundaries of phase one to meet open space requirements within that phase.
6. Based on the expansion of the phase one boundary to include additional hammock, we find that the development plan for phase two will require revision to ensure compliance with County Code. Therefore, we conclude that the site plan for phase two must be revised through an amendment to the conditional use order prior to the issuance of any building permit for phase two.
7. Based on exhibits and testimony given, we find that all noticing requirements have been met.

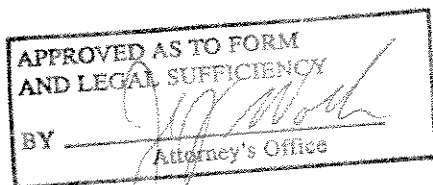
**NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION
OF MONROE COUNTY, FLORIDA, that:**

The preceding findings of fact and conclusions of law support their decision to APPROVE the request by The Heritage Companies and MRT of The Florida Keys for an Amendment to a Minor Conditional Use for an affordable housing project known as Tradewinds Hammocks on property described as lots 1 through 14, inclusive, Block 4, Industrial Acres; and Tract "E" Tradewinds; and all of Troupe Road and the north half of Buttonwood Lane, Key Largo, Monroe County Florida, with the following conditions:

1. A revised conceptual drainage plan must be reviewed and approved by South Florida Water Management District prior to the issuance of a building permit.
2. A transplantation plan must be submitted and approved by the County Biologist prior to the issuance of a building permit.
3. The project shall rent 20% of the units to persons in the very-low category and rent 80% of the units to persons in the low category.
4. Condition 2; and conditions 6,7,8, and 14 (affecting Phase 2) of Minor Conditional use Development Order # 1-00 remain as conditions of this approval.
5. Prior to the issuance of a development order, the site plan shall be amended to include sufficient moderate quality hammock to meet the environmental open space requirements of Section 9.5-343 & 9.5-345.
6. Prior to the issuance of any building permits for Phase 2, the applicant shall be required to receive approval of an amendment to a conditional use order.

PASSED AND ADOPTED by the Planning Commission of Monroe County, Florida, at a regular meeting held on the 27th of June, 2001.

Chair Mapes	YES
Commissioner Coleman	YES
Commissioner Hill	ABSENT
Commissioner Ritz	YES
Commissioner Werling	YES



PLANNING COMMISSION OF
MONROE COUNTY, FLORIDA

By [Signature]
Lynn Mapes, Chair

Signed this 27th day of June, 2001.

Initial _____

**MONROE COUNTY, FLORIDA
PLANNING COMMISSION RESOLUTION NO. P66-04**

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION **APPROVING** THE REQUEST FILED BY TRADEWINDS HAMMOCK, PHASE II TO MODIFY DEVELOPMENT ORDER #1-00 AND PLANNING COMMISSION RESOLUTION #44-01 TO PROVIDE OWNER-OCCUPIED OR RENTAL OF AFFORDABLE HOUSING FOR MODERATE-INCOME LEVELS FOR TRADEWINDS HAMMOCK, PHASE II ON PROPERTY LOCATED AT APPROXIMATELY MILE MARKER 101.5, KEY LARGO, MONROE COUNTY, FLORIDA. THE LAND USE DESIGNATION IS URBAN RESIDENTIAL (UR) AND NATIVE AREA DISTRICT (NA) AND THE REAL ESTATE NUMBERS ARE: 00455550.000000, 00455560.000000, 00455570.000000, 00455580.000000, 00455590.000000, 00455600.000000, 00455610.000000, 00455620.000000, 00455630.000000, 00455640.000000, 00455650.000000, 00455660.000000, 00455670.000000, 00455680.000000, 00454611.000500, 00454611.000600, 00454611.000700, 00454611.000800, 00454611.000900, 00454611.000100, AND 00454611.001100.

WHEREAS, during a regularly scheduled meeting held on November 16, 2004, the Planning Commission conducted a review and consideration of the request filed by Tradewinds Hammock, Phase II to modify condition #10 of Development Order #1-00 and condition #3 of Planning Commission Resolution #44-01 to provide owner-occupied, or rental, of affordable housing for moderate-income levels for Tradewinds Hammock, Phase II in Key Largo; and

WHEREAS, the proposed building is located on property at approximately mile marker 101.5, Key Largo, Monroe County, Florida, RE#s: 00455550.000000, 00455560.000000, 00455570.000000, 00455580.000000, 00455590.000000, 00455600.000000, 00455610.000000, 00455620.000000, 00455630.000000, 00455640.000000, 00455650.000000, 00455660.000000, 00455670.000000, 00455680.000000, 00454611.000500, 00454611.000600, 00454611.000700, 00454611.000800, 00454611.000900, 00454611.000100, and 00454611.001100; and

WHEREAS, the above described property is located in the Urban Residential (UR) and Native Area District (NA) land use districts; and

WHEREAS, the Planning Commission was presented with the following information; which is hereby incorporated as part of the record of said hearing:

- Application for an Amendment to a Minor Conditional Use dated 8/9/04; and
- Traffic Letter prepared by URS Corporation dated 8/23/04; and
- Staff Report prepared by Jeff Stuncard, Principal Planner and Niko Reisinger, Sr. Biologist dated 9/2/04; and
- The sworn testimony of Growth Management Staff; and
- The sworn testimony of the applicant; and
- The sworn testimony of the public; and

- The advice of John Wolfe, Planning Commission Counsel

WHEREAS, the Planning Commission adopted the following Findings of Fact and Conclusions of Law based on evidence presented and the sworn testimony presented and the record:

Based on Section 9.5-65 of the Land Development Regulations, when considering applications for a conditional use permit, the Director of Planning and the Planning Commission shall consider the extent to which the conditional use is consistent with the purposes, goals, objectives, and standards set forth in this section.

1. Based on the application, we find that the applicant has requested to modify condition #10 of Development Order #1-00 and condition #3 of Planning Commission Resolution #44-01.
2. Based on the application, we find that the modification of the aforementioned conditions will result in the ability of the applicant to provide owner-occupied, or rental, of affordable housing for moderate-income levels for Tradewinds Hammock, Phase II.
3. Based on the application, we find that the modification of the aforementioned conditions can be modified and still continue to meet Goal 601 of the Year 2010 Comprehensive Plan, which directs Monroe County to adopt policies to facilitate affordable housing programs.

NOW THEREFORE, BE IT RESOLVED BY PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding Findings of Fact and Conclusions of Law support its decision to **APPROVE** the request by Tradewinds Hammock, Phase II to modify the aforementioned conditions to provide owner-occupied, or rental, of affordable housing for moderate-income levels for Tradewinds Hammock, Phase II in Key Largo.

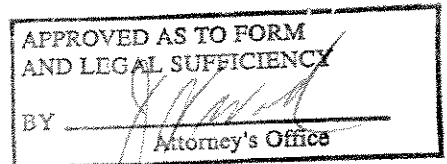
PASSED AND ADOPTED BY THE PLANNING COMMISSION of Monroe County, Florida, at a regular meeting held on the 16th day of November, 2004.

Chair Mapes	<u>YES</u>
Commissioner Ritz	<u>YES</u>
Commissioner Margalli	<u>YES</u>
Commissioner Cameron	<u>YES</u>
Commissioner Werling	<u>NO</u>

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY


Lynn C. Mapes, Chair



Signed this 14th day of January, 2005.

RCD Oct 30 2002 01:53PM
DANNY L KOLHAGE, CLERK

RESOLUTION NO. P52-02

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION APPROVING AN AMENDMENT TO MINOR CONDITIONAL USE DEVELOPMENT ORDER #1-00 REQUESTED BY THE HERITAGE COMPANIES AND MRT OF THE FLORIDA KEYS LLC, FOR THE CONSTRUCTION OF PHASE II OF A 118-UNIT AFFORDABLE HOUSING PROJECT KNOWN AS TRADEWINDS HAMMOCKS AND AMENDING PHASE I TO RELOCATE THE BASKETBALL COURT ON PROPERTY LOCATED ADJACENT TO TRADEWINDS SHOPPING CENTER AND FURTHER DESCRIBED AS LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 4, INDUSTRIAL ACRES SUBDIVISION AND TRACT "E" TRADEWINDS, AND THE ABANDONED PORTION OF TROUP ROAD, KEY LARGO, MONROE COUNTY, FLORIDA, MILE MARKER 101.5. THE LAND USE DESIGNATION IS URBAN RESIDENTIAL (UR) AND NATIVE AREA (NA), AND THE REAL ESTATE NUMBERS ARE 00455550, 00455560, 00455570, 00455580, 00455590, 00455600, 00455610, 00455620, 00455630, 00455640, 00455650, 00455660, 00455670, 00455680, 00455611.000500, 00455611.000600, 00455611.000700, 00455611.000800, 00455611.000900, 00455611.001000 AND 00455611.001100.

WHEREAS, The Heritage Companies and MRT of the Florida Keys LLC, is the owner of real property described as Lots 1 through 14, inclusive, Block 4, Industrial Acres Subdivision, and Tract "E" of Tradewinds, Key Largo, Monroe County, Florida, Mile Marker 101.5; and

WHEREAS, the above described property is located in the Urban Residential (UR) and Native Area (NA) land use (zoning) districts; and

WHEREAS, The Heritage Companies and MRT of the Florida Keys LLC, received Minor Conditional Use approval for the construction of Tradewinds Hammocks Phases I and II with the condition that Phase II be reviewed as an Amendment to a Minor Conditional Use; and

WHEREAS, the Planning Commission of Monroe County, Florida, in accordance with the provisions of Sections 9.5-24 and 9.5-73 of the Monroe County Land Development Regulations, met to review the request of The Heritage Companies and MRT of the Florida Keys LLC for approval of the Tradewinds Hammocks Phase II Amendment to a Minor Conditional Use application on July 23, 2002; and

WHEREAS, the Planning Commission reviewed the following information relevant to the request to amend Minor Conditional Use Development Order #1-00, including but not limited to:

- The application for an Amendment to a Minor Conditional Use dated April 12, 2002; and
- Plans reviewed: Site Plan for Tradewinds Hammock Phase II, prepared by Bender and Associates, dated 4/11/02; and revised Site Plan Phase II, prepared by Bender and Associates, dated 6/04/02;

and Site Plan Tradewinds Hammock (approved by Planning Commission Resolution #44-01) prepared by Bender and Associates, dated 12/28/99 and revised 2/12/02; and

- Revised Conceptual Drainage Plan, prepared by Allen Perez, dated 6/12/02; and
- Vegetative Site Plan (Phase II) prepared by Environmental Consulting Systems, Inc., dated 3/08/02; and
- Level III Traffic Study prepared by Carter & Burgess, Inc., dated June 2002; and
- Letter from Kimco Realty Corporation to Mr. Don Craig, dated 6/4/02; and
- Letter from Florida Keys Aqueduct Authority to Mr. Don Craig, dated 6/18/02; and
- Letter from U. S. Fish and Wildlife Service, dated 4/30/2002; and
- Declaration of Restrictive Covenant, dated 9/24/86; and
- Letter from Monroe County Fire Marshall, Joe London to Mr. Don Craig, dated 6/20/02; and
- Letter from Monroe County Engineer, Dave Koppel to Mr. Ed McGee, dated 6/12/02; and
- Letter from Monroe County Engineer, Dave Koppel to Mr. J. G. Buckley, dated 7/19/02; and
- Letter from County Engineer, Dave Koppel to Mr. Frank Greenman, Esq., dated 5/14/02; and
- Letter from Monroe County Traffic Consultant, Raj Shanmugam, P.E. to Planning Commission Coordinator, Ms. Judith Chambers, dated 7/18/02; and
- Letter from Wahid Nor, P.E., District Permits Engineer for the Florida Department of Transportation District 6 Permitting Office to Mr. Joaquin Vargas, dated 7/17/02; and

WHEREAS, the Planning Commission adopted the following findings of fact and conclusions of law:

1. Based on previous action by the Monroe County Planning Commission, Tradewinds Hammock Phases I and II were approved via Development Order #1-00 (March 23, 2000). Based on Planning Commission Resolution P44-01 (June 7, 2001), we find that prior to issuance of a building permit for Phase II, the applicant must receive approval for an Amendment to a Minor Conditional Use; and
2. Based on the revised site plan submitted, the letter from Kimco Realty Corporation dated 6/04/02 and the Board of County Commissioners action of 5/15/02 approving the abandonment of Troup Road, we find that Phase II will reduce the number of units from 56 to 52 therefore meeting the density requirement per the Monroe County Code; and
3. Based on the submitted plans and analysis by Environmental Resources Staff, strict adherence to the open space requirements will preserve Disturbed Habitat at the expense of development within more sensitive Low Quality Hammock. Therefore, we find that the County Biologist's

authorization for a deviation to allow more complete development within the Disturbed Habitat is warranted; and

4. Based on the submitted site plan the basketball court (required by law to remain in Phase I) has been relocated within Phase I. Therefore, based on Monroe County Code Section 9.5-345, we find that the relocated amenity meets the clustering requirements for Phase I; and
5. Based on the submitted Level III Traffic Study prepared by Carter & Burgess, Inc. and the comments of the County's traffic consultant, we find that the proposed access to Phase II via Troup Road must meet all Florida Department of Transportation requirements with regard to connecting with north-bound US 1. Furthermore, based on the staff report submitted and the testimony of the applicant we find that the applicant shall be responsible for constructing Troup Road and for meeting all appropriate criteria set forth by the County Engineer. Therefore, we conclude that an access permit for Troup Road must be received from the Florida Department of Transportation; and
6. Based on the comments of the County's traffic consultant, we find that a revised conceptual plan for the intersection of Troup Road and US 1 indicating the appropriate clear sight triangles must be submitted before compliance with Section 9.5-427 can be determined; and
7. Based on the staff report and the site plan submitted, we find that the drainage plan (surface water management) for Phase II must be approved by the South Florida Water Management District as a modification to Permit 44-00294-P. We also find that the County Engineer must also approve the plan; and
8. Based on the submittal, we find that the proposed wastewater treatment plant permit for Phase II is currently being processed by the Florida Department of Environmental Protection.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that:

The preceding findings of fact and conclusions of law support their decision to APPROVE the request by The Heritage Companies and MRT of the Florida Keys LLC for an Amendment to a Minor Conditional Use for an affordable housing project known as Tradewinds Hammocks on property described as Lots 1 through 14, inclusive, Block 4, Industrial Acres and Tract "E" Tradewinds and all of Troup Road, Key Largo, Monroe County, Florida, with the following conditions:

1. An access permit for Troup Road must be received from the Florida Department of Transportation (FDOT) and the configuration with regard to design and safety issues must be approved by the County's traffic consultant prior to the issuance of a building permit.
2. A conceptual plan for the intersection of Troup Road with US 1 indicating clear sight triangles shall be approved by the County's traffic consultant prior to the issuance of a building permit.
3. The construction of Troup Road from the property line of Tradewinds Hammocks to US 1 must be completed prior to the issuance of a Certificate of Occupancy.
4. The South Florida Water Management District (SFWMD) and the County Engineer shall approve the submitted surface water management plan as a modification to Permit 44-00294-P prior to the issuance of a building permit.

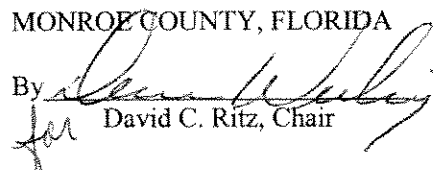
5. A Florida Department of Environmental Protection permit for the wastewater treatment plant in Phase II must be received prior to the issuance of a building permit.
6. A conceptual plan for a gated and locked fire lane, capable of supporting the weight of fire apparatus, which will provide emergency access to Phase II via Hibiscus Lane, must be submitted to and approved by the Monroe County Fire Marshall prior to the issuance of a building permit.
7. The transfer and recording of the deed from the The Kimco Company for its portion of the northern half of Troup Road to Tradewinds Hammocks must occur prior to the relocation of the basketball court in Phase I (and any clearing associated with the relocation) and prior to the issuance of a building permit for Phase II.
8. Hibiscus Lane, per the direction of the Monroe County Board of County Commissioners, shall not be used for access to Phase II of Tradewinds Hammocks by the general public. However, Buttonwood Lane shall provide access to the gated/locked fire access way for emergency vehicles only.
9. Any alteration to the approved site plan other than what is described in MCC Section 9.5-72(b)(3) as a "minor deviation" shall be brought before the Planning Commission for review.

PASSED AND ADOPTED by the Planning Commission of Monroe County, Florida,

Chair Ritz	YES
Commissioner Coleman	YES
Commissioner Hill	YES
Commissioner Putney	YES
Commissioner Werling	YES

PLANNING COMMISSION OF
MONROE COUNTY, FLORIDA

By

for 
David C. Ritz, Chair

Signed this 25th day of Sept., 2002

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY

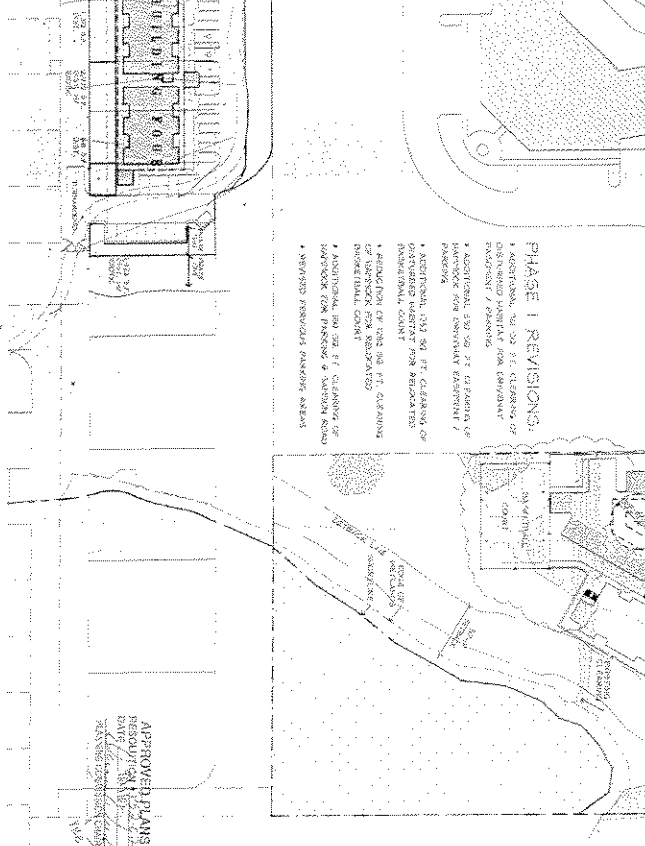
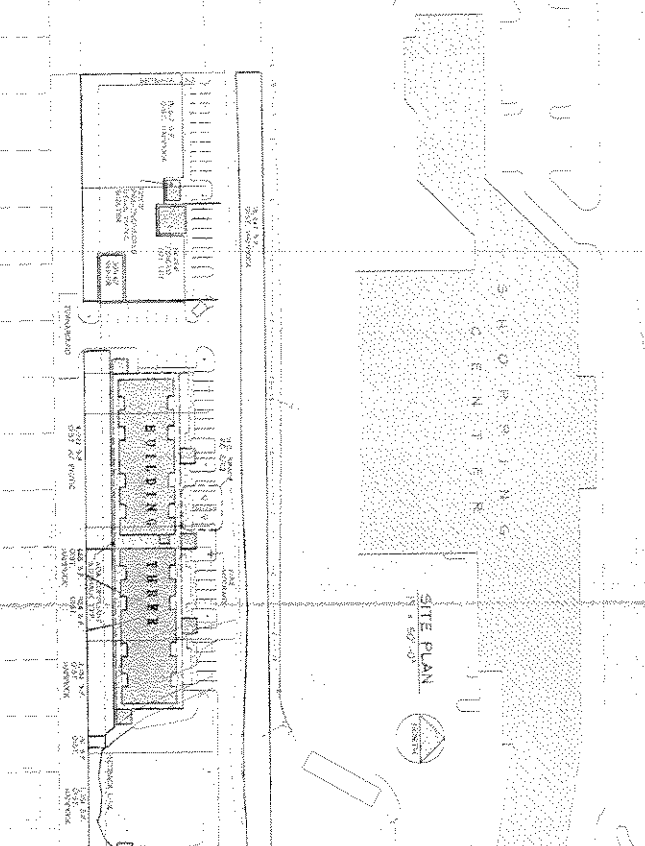

Attorney's Office

MONROE COUNTY
OFFICIAL RECORDS

NOTE:
 IN ACCORDANCE WITH THE HAWAIIAN LAND MANAGEMENT ACT, A
 PRELIMINARY ENVIRONMENTAL ASSESSMENT (PEA) HAS BEEN CONDUCTED
 TO DETERMINE THE POTENTIAL FOR ADVERSE EFFECTS ON THE
 ENVIRONMENT FROM THE PROPOSED DEVELOPMENT. THE PEA IS
 A PRELIMINARY ASSESSMENT AND DOES NOT CONSTITUTE A
 GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED
 HEREIN.

TRADEWINDS HAMMOCKS COMBINED DENSITY ANALYSIS									
ANALYSIS TYPE	PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 5	PHASE 6	PHASE 7	PHASE 8	PHASE 9
NO. OF UNITS	100	100	100	100	100	100	100	100	100
NO. OF GARAGES	100	100	100	100	100	100	100	100	100
NO. OF PARKING SPACES	100	100	100	100	100	100	100	100	100
NO. OF BICYCLE SPACES	100	100	100	100	100	100	100	100	100
NO. OF STORAGE SPACES	100	100	100	100	100	100	100	100	100
NO. OF COMMERCIAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF OFFICE SPACES	100	100	100	100	100	100	100	100	100
NO. OF RETAIL SPACES	100	100	100	100	100	100	100	100	100
NO. OF RESTAURANT SPACES	100	100	100	100	100	100	100	100	100
NO. OF HOTEL SPACES	100	100	100	100	100	100	100	100	100
NO. OF SENIOR HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF AFFORDABLE HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF SPECIALTY HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF MIXED-USE SPACES	100	100	100	100	100	100	100	100	100
NO. OF CULTURAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF COMMUNITY SPACES	100	100	100	100	100	100	100	100	100
NO. OF RECREATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF ART SPACES	100	100	100	100	100	100	100	100	100
NO. OF MUSIC SPACES	100	100	100	100	100	100	100	100	100
NO. OF THEATRE SPACES	100	100	100	100	100	100	100	100	100
NO. OF CONCERT SPACES	100	100	100	100	100	100	100	100	100
NO. OF EXHIBITION SPACES	100	100	100	100	100	100	100	100	100
NO. OF PERFORMANCE SPACES	100	100	100	100	100	100	100	100	100
NO. OF MEETING SPACES	100	100	100	100	100	100	100	100	100
NO. OF CONFERENCE SPACES	100	100	100	100	100	100	100	100	100
NO. OF EDUCATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF RESEARCH SPACES	100	100	100	100	100	100	100	100	100
NO. OF DEVELOPMENT SPACES	100	100	100	100	100	100	100	100	100
NO. OF INDUSTRIAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF MANUFACTURING SPACES	100	100	100	100	100	100	100	100	100
NO. OF WAREHOUSE SPACES	100	100	100	100	100	100	100	100	100
NO. OF DISTRIBUTION SPACES	100	100	100	100	100	100	100	100	100
NO. OF LOGISTICS SPACES	100	100	100	100	100	100	100	100	100
NO. OF TRANSPORTATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF INFRASTRUCTURE SPACES	100	100	100	100	100	100	100	100	100
NO. OF UTILITIES SPACES	100	100	100	100	100	100	100	100	100
NO. OF PUBLIC SPACES	100	100	100	100	100	100	100	100	100
NO. OF PRIVATE SPACES	100	100	100	100	100	100	100	100	100
NO. OF SPECIALTY SPACES	100	100	100	100	100	100	100	100	100
NO. OF OTHER SPACES	100	100	100	100	100	100	100	100	100

TRADEWINDS HAMMOCKS COMBINED DENSITY ANALYSIS									
ANALYSIS TYPE	PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 5	PHASE 6	PHASE 7	PHASE 8	PHASE 9
NO. OF UNITS	100	100	100	100	100	100	100	100	100
NO. OF GARAGES	100	100	100	100	100	100	100	100	100
NO. OF PARKING SPACES	100	100	100	100	100	100	100	100	100
NO. OF BICYCLE SPACES	100	100	100	100	100	100	100	100	100
NO. OF STORAGE SPACES	100	100	100	100	100	100	100	100	100
NO. OF COMMERCIAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF OFFICE SPACES	100	100	100	100	100	100	100	100	100
NO. OF RETAIL SPACES	100	100	100	100	100	100	100	100	100
NO. OF RESTAURANT SPACES	100	100	100	100	100	100	100	100	100
NO. OF HOTEL SPACES	100	100	100	100	100	100	100	100	100
NO. OF SENIOR HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF AFFORDABLE HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF SPECIALTY HOUSING SPACES	100	100	100	100	100	100	100	100	100
NO. OF MIXED-USE SPACES	100	100	100	100	100	100	100	100	100
NO. OF CULTURAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF COMMUNITY SPACES	100	100	100	100	100	100	100	100	100
NO. OF RECREATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF ART SPACES	100	100	100	100	100	100	100	100	100
NO. OF MUSIC SPACES	100	100	100	100	100	100	100	100	100
NO. OF THEATRE SPACES	100	100	100	100	100	100	100	100	100
NO. OF CONCERT SPACES	100	100	100	100	100	100	100	100	100
NO. OF EXHIBITION SPACES	100	100	100	100	100	100	100	100	100
NO. OF PERFORMANCE SPACES	100	100	100	100	100	100	100	100	100
NO. OF MEETING SPACES	100	100	100	100	100	100	100	100	100
NO. OF CONFERENCE SPACES	100	100	100	100	100	100	100	100	100
NO. OF EDUCATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF RESEARCH SPACES	100	100	100	100	100	100	100	100	100
NO. OF DEVELOPMENT SPACES	100	100	100	100	100	100	100	100	100
NO. OF INDUSTRIAL SPACES	100	100	100	100	100	100	100	100	100
NO. OF MANUFACTURING SPACES	100	100	100	100	100	100	100	100	100
NO. OF WAREHOUSE SPACES	100	100	100	100	100	100	100	100	100
NO. OF DISTRIBUTION SPACES	100	100	100	100	100	100	100	100	100
NO. OF LOGISTICS SPACES	100	100	100	100	100	100	100	100	100
NO. OF TRANSPORTATION SPACES	100	100	100	100	100	100	100	100	100
NO. OF INFRASTRUCTURE SPACES	100	100	100	100	100	100	100	100	100
NO. OF UTILITIES SPACES	100	100	100	100	100	100	100	100	100
NO. OF PUBLIC SPACES	100	100	100	100	100	100	100	100	100
NO. OF PRIVATE SPACES	100	100	100	100	100	100	100	100	100
NO. OF SPECIALTY SPACES	100	100	100	100	100	100	100	100	100
NO. OF OTHER SPACES	100	100	100	100	100	100	100	100	100



Bender & Associates
ARCHITECTS

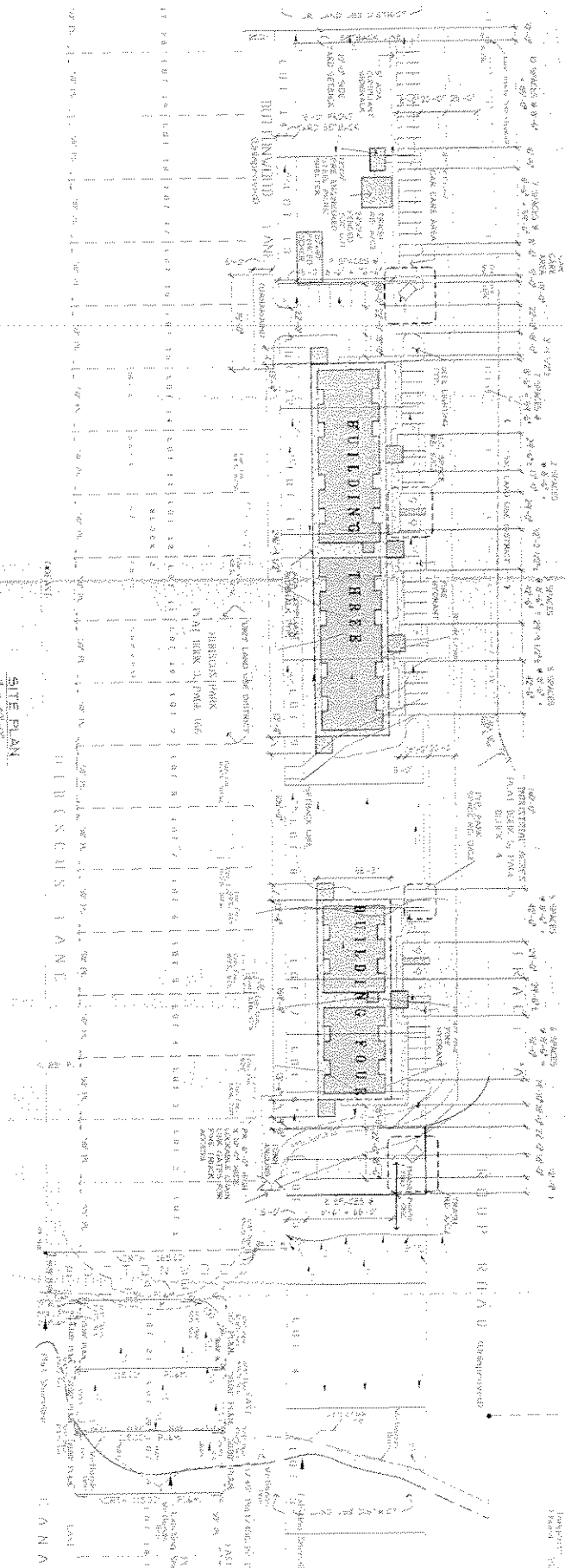
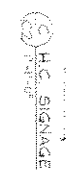
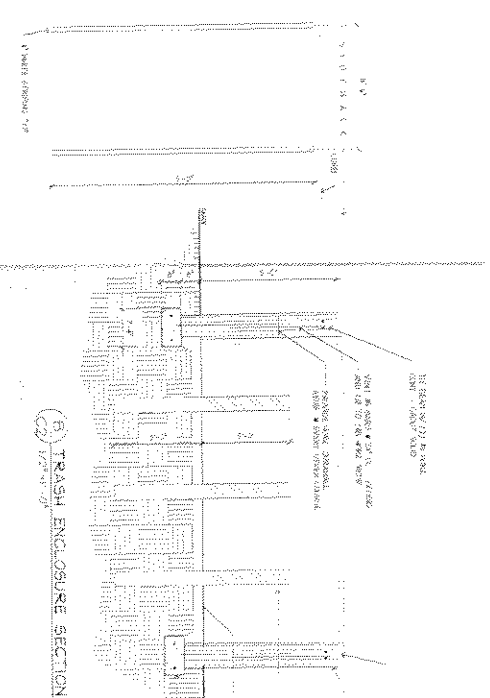
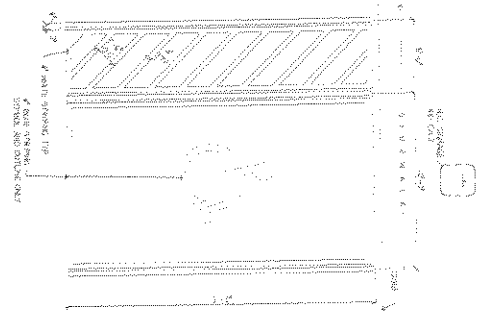
TRADEWINDS HAMMOCKS
PHASE II
Samson Road
Key Largo, Florida

APPROVED PLANS
DATE: 10/1/2010
BY: [Signature]

Bender & Associates
ARCHITECTS

TRADEWINDS HAMMOCKS
PHASE II
Samson Road
Key Largo, Florida

APPROVED PLANS
DATE: 10/1/2010
BY: [Signature]



The Craig Company

Planners & Designers
Comprehensive Planning
Kearney/Johnson Planning
Land Use Regulatory
Development Feasibility
Site Analysis
Landscape Design
EXECUTIVE WIRELESS

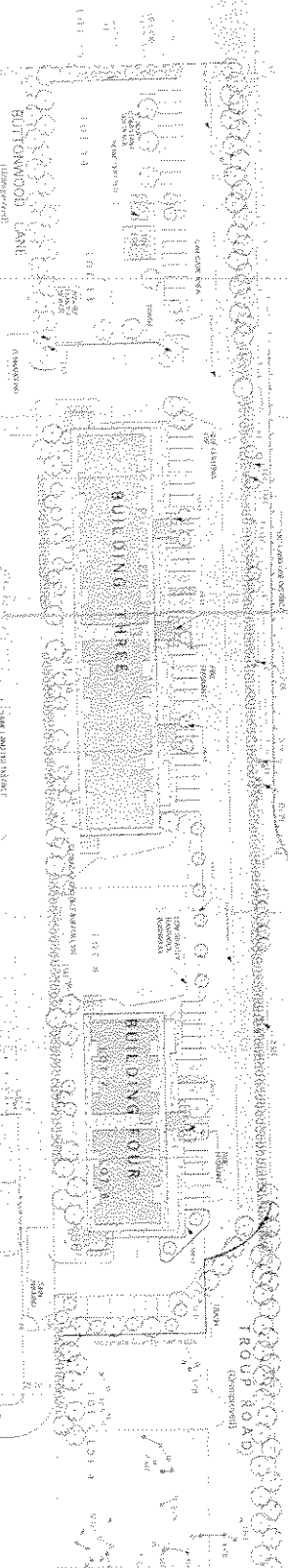
Mailing Address: P.O. Box 372
Key West, Florida 32041

Office Location: 3000 White Street
Key West, Florida

Phone: 305.294.1515
Fax: 305.242.1525
E-mail: CRAIG@CRAIGKEYWEST.COM

LANDSCAPE CALCULATIONS: INDUSTRIAL ACRES

PLANT SCHEDULE	PLANT NAME	PLANT SIZE	PLANT QUANTITY	PLANT VOLUME
UNDERSTORY (KEEP MINIMUM SIZE TO BE PLANTED - 10 GALLON)	UNDERSTORY (KEEP MINIMUM SIZE TO BE PLANTED - 10 GALLON)	UNDERSTORY (KEEP MINIMUM SIZE TO BE PLANTED - 10 GALLON)	UNDERSTORY (KEEP MINIMUM SIZE TO BE PLANTED - 10 GALLON)	UNDERSTORY (KEEP MINIMUM SIZE TO BE PLANTED - 10 GALLON)
PLANT SCHEDULE	PLANT NAME	PLANT SIZE	PLANT QUANTITY	PLANT VOLUME
PLANT SCHEDULE	PLANT NAME	PLANT SIZE	PLANT QUANTITY	PLANT VOLUME



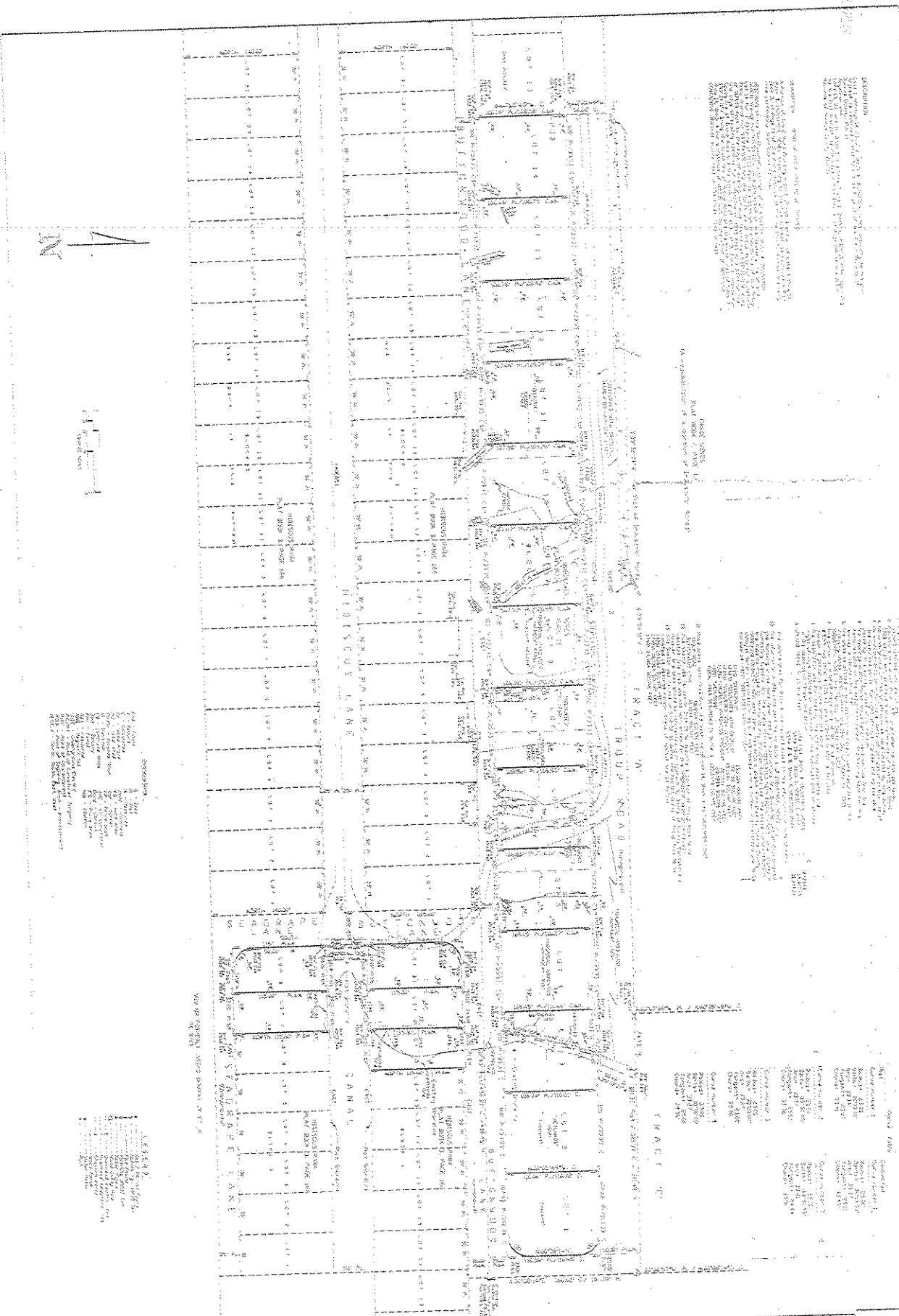
CONCEPTUAL LANDSCAPE PLAN

SCALE: 1" = 400'

TRADEWINDS HAMMOCKS PHASE II

Samson Road Key Largo

DESIGN BY: 1994
CRAIG CO. 1994
DATE: APRIL 15, 2002
REVISED: JUNE 15, 2002
SHEET: 1-1



The diagram shows a subject sitting at a table, looking at a video screen. A camera is positioned above the screen. A target is placed on the table. The subject's hand is positioned to move towards the target. The diagram illustrates the visual feedback loop where the subject sees their hand's position on the screen.

[illegible]

1. *Staphylococcus aureus* (S. aureus)
 2. *Staphylococcus epidermidis* (S. epidermidis)
 3. *Staphylococcus saprophyticus* (S. saprophyticus)
 4. *Staphylococcus carnosus* (S. carnosus)
 5. *Staphylococcus sciuri* (S. sciuri)
 6. *Staphylococcus hyacinthi* (S. hyacinthi)
 7. *Staphylococcus lentus* (S. lentus)
 8. *Staphylococcus saprophilus* (S. saprophilus)
 9. *Staphylococcus epidermidis* (S. epidermidis)
 10. *Staphylococcus aureus* (S. aureus)

DAVID S. MASSIE, PROFESSIONAL LAND SURVEYOR - 88888 OVERSEAS RD. / P.O. BOX 515 - TAVELIER, F. 32070

Phone: (408) 552-1282 FAX: (408) 552-1283

Number of Surveyors: 1
 Surveyor: S. David Massie JR. 4082 Survey by: DCM
 Date: 10/2/88
 Method: American Standard (Tiebacks)
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